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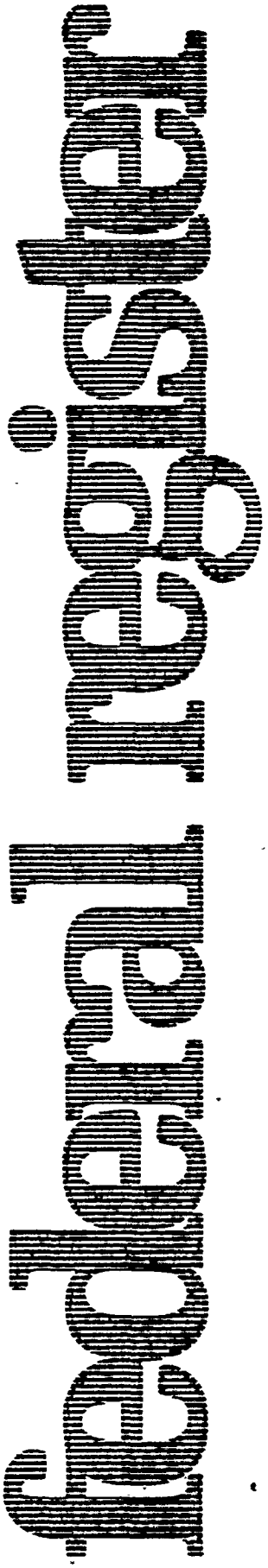

Tuesday
August 5, 1980

Highlights

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Highlights

Separate Parts of This Issue

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CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category. For the page reference, please refer to the appropriate agency in today's table of contents.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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Tuesday, August 5, 1980

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

Training

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document changes the implementing regulations of the Government Employees Training Act which prohibits the use of appropriated funds for training in non-Government facilities that advocate the overthrow of the Government by violence or force and through individuals about whom there exists a reasonable doubt of their loyalty to the United States.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Constance Guitian, Training Policy Division, [202] 653–6171.

SUPPLEMENTARY INFORMATION: On April 11, 1980, the Office of Personnel Management published proposed regulations (45 FR 24899) to eliminate an obsolete reference to checking the Attorney General's list for organizations, and the need to request clearances from the Office of Personnel Management and to administer an affidavit of loyalty for individuals. Comments were invited from the public, but none were received.

The Office of Personnel Management has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management,

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management revises § 410.504 of Title 5, Code of Federal Regulations, to read as follows:

§ 410.504 Prohibiton of training through non-Government facilities advocating overthrow of the Government by force or violence.

The head of the agency shall make the determination that payments for training by, in, or through a non-Government facility are not in violation of section 4107(a) (1) and (2) of Title 5, United States Code.

(5 U.S.C. 4101 *et seq.*)

[FR Doc. 80-23544 Filed 8-4-80; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

Mediterranean Fruit Fly

Correction

In FR Doc. 80–22792 appearing on page 50318 in the issue for Tuesday, July 29, 1980; on page 50321, second column, footnote 2 was omitted, please insert the following under footnote 1:

[2]Regulations concerning the movement of live Mediterranean fruit flies in interstate or foreign commerce are contained in Part 330 of this chapter.

BILLING CODE 1505-01-M

Agricultural Stabilization and Conservation Service

7 CFR Part 722

[Amend. 7]

Marketing Quota Regulations and Recordkeeping Requirements for the 1972 and Succeeding Crops of Extra-Long Staple Cotton

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Final rule.

SUMMARY: This rule announces the rate of penalty for exceeding the farm marketing quota applicable to the 1980 crop of extra long staple cotton as prescribed by the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley, Production Adjustment Division, ASCS, USDA, 3644 South Building, P.O. Box 2415, Washington, D.C. 20013 (202) 447–7633. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: The program title and number from the "Catalog of Federal Domestic Assistance" is Cotton Production Stabilization, 10.052. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action. This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant".

Ray V. Fitzgerald, Administrator, ASCS, has determined that a situation exists which warrants publication without opportunity for a public comment period on this final action because the computation of the penalty rate is prescribed by law and no variation is permitted. Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this final action effective less than 30 days after publication of this document in the Federal Register.

Section 347(c) of the Agricultural Adjustment Act of 1938, as amended, specifies that the rate of penalty for exceeding the farm marketing quota with respect to each crop of extra long staple cotton shall be the higher of 50 percent of the parity price as of June 15 of the calendar year in which the crop is produced or 50 percent of the support price for extra long staple cotton. The parity price effective for June 15 as determined by the Crop Reporting Board of the Economics, Statistics, and Cooperatives Service of USDA and published in "Agricultural Prices" dated may 30, 1980, was 172.0 cents per pound and the extra long staple cotton loan rate applicable for the 1980 crop is 93.5 cents per pound.

Final Rule

Accordingly, the regulations at 7 CFR § 722.73 are amended by revising paragraph (c) to read as follows:

§ 722.73 Rate of Penalty.

* * * * *

(c) The 1980 ELS cotton penalty rate is 86.0 cents per pound.

(Secs. 346, 347, 373, 375, 63 Stat. 674, as amended, 63 Stat. 675, as amended, 52 Stat. 65, 66, as amended, 7 U.S.C. 1346, 1347, 1373, 1375)

Signed at Washington, D.C. on July 29, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-23479 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

7 CFR Part 1446

[1980-Crop Peanut Warehouse Loan and Purchase Program Supplement]

1980-Crop Peanut Warehouse Loan and Purchase Program

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to make determinations and to set forth loan and purchase rates, premiums, and discounts for differences in type, quality, location and other factors applicable to 1980-crop quota and additional peanuts. This final rule is needed to make price support available to producers on 1980-crop peanuts.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Gypsy Banks [ASCS], (202) 447-6733.

SUPPLEMENTARY INFORMATION: The 1980-crop peanut loan and purchase program is authorized by the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"), the Agricultural Adjustment Act of 1938, as amended, and the Commodity Credit Corporation Charter Act, as amended. The program is intended to stabilize market prices and to protect producers, handlers, processors, and consumers. The 1980 Crop Loan and Purchase Program Regulations, published by CCC in the Federal Register on February 21, 1980 (45 FR 11462), established the national average support level for the 1980 crop at $455 per ton for quota peanuts and $250 per ton for additional peanuts. Section 403 of the Act provides that appropriate adjustments may be made in the support price for differences in type, quality, location and other factors. The adjustments shall be made in such a manner so that the average support price shall, so far as practicable, be equal to the level of support for peanuts for the applicable crop year.

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of these regulations contained in 7 CFR 1446.38-.40 for need, currency, clarity and effectiveness will be made within the next five years. The title and number of the federal assistance program that this final rule applies to is: TITLE—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review was established by OMB Circular A-95, was not used to assure that units of local government are informed of this action.

On April 28, 1980, a Notice of Proposed Rulemaking entitled "Proposed Amendment to the 1980-Crop Peanut Loan and Purchase Program" was published in the Federal Register (45 FR 28148). This notice announced that the Commodity Credit Corporation ("CCC") was preparing to make determinations and issue regulations for 1980-crop peanuts, adjusting loan and purchase rates for quota and additional peanuts to reflect differences in type, quality, location, and other factors, and invited the public to submit written comments.

Twenty-one comments were received in response to the April 28 Notice of Proposed Rulemaking: 1 from a manufacturer, 4 from grower groups, 2 from general farm organizations, 3 from sheller associations, 2 from area marketing associations, 3 from shellers, 3 from State governmental agencies, 2 from State Extension Services, and 1 from an individual. Of the commentators responding, 13 recommended adoption of the loan rates and price differentials as proposed with Virginia type Sound Mature Kernels (SMK) priced 2 percent above Runner type SMK and Spanish type SMK priced one-half percent above Runner SMK. Seven respondents indicated that the present differentials have overpriced Spanish peanuts in comparison with Runner peanuts and recommended pricing Runner type SMK and Spanish type SMK the same, and pricing Virginia type SMK 3.9 cents above Runner type SMK and Spanish type SMK.

After considering all the comments received, it has been determined that the premiums, discounts, quality and location adjustments and other factors applicable to the support price for 1980-crop quota and additional peanuts shall remain the same as for the 1979 crop. However, it has further determined that the percentage factor used in calculating the loan value for the 1980 crop of additional peanuts will be decreased from 71.43 percent to 54.95 percent because of the decrease in the national average loan rate for 1980 crop of additional peanuts from $300 to $250 per ton. The sound mature kernel (SMK) value of Virginia type peanuts shall be 2 percent above and Spanish type one-half percent above the SMK value of Runner type peanuts, the same as for 1979 crop peanuts.

The historical objective of price support differentials has been to offer to eligible producers price support levels by type, quality, and location that are representative of the differences in market values between these types and qualities of peanuts. In addition, the statute authorizing the program requires that if any adjustments are made in the support level for any commodity for type, quality, or location, such adjustments shall be made in such manner that the average support for the commodity will, on the basis of the anticipated incidence of such factors, be equal to the national average support level. The type, quality, and location differentials which have been established are in accordance with this requirement.

Final Rule

Accordingly, 7 CFR Part 1446 is amended, effective for the 1980 crop of quota and additional peanuts, by revising §§ 1446.38 through 1446.40 to read as provided below. The material previously appearing in these sections remains in full force and effect as to the 1979 crop.

Sec.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1421, 1441c, 1445).

§ 1446.38 Average support values by type for quota peanuts.

The support values by type per average grade ton of 1980-crop quota peanuts are:

Type:	*Per average grade ton*
Virginia	$451.69
Runner	459.09
Spanish	437.89
Valencia	

Type:	Per average
Southwest area—suitable for cleaning and roasting	451.69
Southwest area—not suitable for cleaning and roasting	437.89
Areas other than Southwest	437.89

§ 1446.39 Calculation of support values for quota peanuts.

The support price per ton for 1980-crop quota peanuts of a particular type and quality shall be calculated on the basis of the following rates, premiums and discounts (with no value assigned to damaged kernels), except that the minimum support value for any lot of eligible peanuts of any type shall be 8 cents per pound of kernels in the lot:

(a) *Kernel value per ton excluding loose shelled kernels.* (1) The price per ton for each percent of sound mature and sound split kernels shall be:

Type:	Per percent
Virginia	$6.518
Runner	6.390
Spanish	6.422
Valencia	
Southwest area—suitable for cleaning and roasting	6.786
Southwest area—not suitable for cleaning and roasting	6.422
Areas other than Southwest	6.422

(2) The price per ton for each percent of other kernels shall be:

Type:	Per percent
All types	$1.40

(3) The premium per ton for each percent of extra large kernels in Virginia type peanuts shall be:

Type:	Per percent
Virginia extra large kernels	$0.45

However, no premium for extra large kernels shall be applicable to any lot of such peanuts containing more than 4 percent damaged kernels.

(b) *Value of loose shelled kernels per pound.* The price for each pound of loose shelled kernels shall be:

	Per pound
All types [450.07	

(c) *Foreign material discount.* For all types of peanuts, the discount per ton for foreign material shall be as follows:

Percent:	Discount
0–4	$0
5	1.00
6	2.00
7	3.00
8	4.00
9	5.00
10	6.00
11	7.00
12	8.50
13	10.00
14	11.50
15	13.00
16 and over	(1)

[1] For each full percent in excess of 15 percent deduct an additional $2.

(d) *Sound split kernel discount.* For all types of peanuts, the discount per ton for sound split kernels shall be as follows:

Peanuts containing sound split kernels of:	Discount
1 through 4 percent	$0
5 percent	1.00
6 percent	1.80
7 percent and over	(1)

[1] For each full percent in excess of 6 percent deduct an additional $0.80.

(e)(1) *Damaged kernel discount.* For all types of peanuts, the discount per ton for damaged kernels shall be as follows:

Peanuts containing damaged kernels of:	Discount
1 percent	$0
2 percent	3.40
3 percent	7.00
4 percent	11.00
5 percent	25.00
6 percent	40.00
7 percent	60.00
8 to 9 percent	80.00
10 percent and over	100.00

(2) Notwithstanding the above discount schedule, the damaged kernel discount for Segregation 2 peanuts transferred from additional to quota loan pools shall not exceed $25 per ton.

(f) *Price adjustment for peanuts sampled with other than a pneumatic sampler.* The support price per ton for Virginia-type peanuts sampled with other than a pneumatic sampler shall be reduced by $0.10 per percent sound mature and sound split kernels.

(g) *Mixed type discount.* Individual lots of farmer stock peanuts containing mixtures of two or more types in which there is less than 90 percent of any one type will be supported at a rate which is $10 per ton less than 90 percent of any one type will be supported at a rate which is $10 per ton less than the support price applicable to the type in the mixture having the lowest support price.

(h) *Location adjustments to support prices.* Farmers stock peanuts delivered to the associations for price support advances in the States specified, where peanuts are not customarily shelled or crushed, shall be discounted as follows:

	Per ton
1. Arizona	$25.00
2. Arkansas	10.00
3. California	33.00
4. Louisiana	7.00
5. Mississippi	10.00
6. Missouri	10.00
7. Tennessee	25.00

(i) *Virginia type peanuts.* Virginia type peanuts, to receive peanut price support as Virginia type, must contain 40 percent or more "fancy" size peanuts, as determined by a presizer with the rollers set at $^{33}/_{64}$ inch space. Virginia type peanuts so determined to contain less than 40-percent "fancy" size peanuts will be supported (but not classed) as though they were Runner type.

(j) *Discount for Aspergillus flavus mold (segregation 3 peanuts).* There will be no discount applied to segregation 3 peanuts for A. flavus mold when such peanuts are placed under loan at the additional loan rate. Should such peanuts later be transferred to a quota loan pool under § 1446.16 of these regulations, they will be discounted at the rate of $25 per net ton from the quota price support loan rate.

§ 1446.40 Calculation of support values for additional peanuts

The support price per ton for 1980-crop additional peanuts of a particular type and quality shall be calculated on the basis of 54.95 percent of the same rates, premiums, and discounts as are applicable to quota peanuts. This percentage was computed by dividing the national average support rate per ton for additional peanuts by the national average support rate per ton for quota peanuts.

Note.—This regulation has been determined to be not significant under the USDA criteria implementing Executive Order 12044 and only contains necessary operating decisions and requirements to implement the national average peanut price support rates announced on February 21, 1980. An approved Final Impact Statement is available from Gypsy S. Banks (ASCS) (202) 447-6733.

Signed at Washington, D.C., on July 24, 1980.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-23296 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-05-M

Food Safety and Quality Service

7 CFR Part 2853

Meats, Prepared Meats, and Meat Products; Grading, Certification, and Standards

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends certain official United States standards for grades of meat and the related meat grading regulations. The changes provide that, generally, meat will be graded only in the form of carcasses or side and in the establishments in which the animals were slaughtered or initially chilled. Also, trimming procedures and conditions necessary for removal of yield grade designations are clarified and revised. These revisions are substantially the same as those proposed in the October 16, 1979, Federal Register except for one portion of that proposal which has been modified to reflect substantive comments and one portion which has been deleted. These changes are designed to increase the accuracy and uniformity of meat grade determinations

and to provide more accurate grade infromation to purchasers of meat.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Goodall, Deputy Director, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4727. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Mr. Goodall.

SUPPLEMENTARY INFORMATION:

Significance

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified as "significant."

Background

The Federal grading of meat is a voluntary service, provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), which is designed to facilitate the marketing of livestock and meat. The Federal grade designations indicate quality (a prediction of the palatability characteristics of the lean) and yield (an estimate of the yield of retail cuts that may be expected from a carcass). The costs of Federal meat grading are paid for by fees collected from the users of the service. During the 53 years that these services have been provided, they have offered to all qualified applicants, and they have served as a useful function to both industry and consumers.

In 1979, approximately 58 percent of the beef, 81 percent of the lamb, and 10 percent of the veal and calf producted on a commercial basis were federally graded—approximately 12.2 billion pounds of graded meat. The service was conducted in over 750 establishments by a staff of about 530 meat graders and supervisory personnel. Based on USDA estimates of the number of fed cattle marketed in 1979 and the quantity of beef graded by the Food Safety and Quality Service's (FSQS) meat grading service, it is estimated that approximately three-fourths of the fed beef producted was federally graded. Fed beef is the source of most of the fresh beef cuts reaching consumers through retail stores. Since Federal grades are used extensively by the meat industry and relatively wide spreads in price frequently result between grades, it is necessary that Federal meat grading continue to be conducted as accurately and uniformly as possible.

On January 23, 1978, the FSQS published in the Federal Register (43 FR 3140–3145) a proposed rule to revise certain official United States standards for grades of meat and the related meat grading regulations. The major changes recommended in the proposal were: (1) all meat from cattle and sheep would be graded only at the point of slaughter and only in carcass form, (2) beef carcasses would be required to be ribbed at least 30 minutes prior to being offered for grading, (3) kidneys and all kidney, pelvic, and heart fat would be required to be removed from beef carcasses before being offered for grading, (4) conditions under which the yield grade designations may be removed from grade-identified steer, heifer, cow, and bullock beef would be modified, and (5) the term "beef carcass," which includes "side" or "side," would be defined to specify an explanation of the manner in which it must be dressed before being presented for grading. In response to the proposal, testimony was received from 100 witnesses at 5 public hearing sessions and 496 written comments were received by the Department's Hearing Clerk. General reaction to that proposal was negative.

Evaluation of all comments and testimony indicated that much of the opposition to the proposed changes was not directed at the objectives of the proposed changes or the concepts involved but rather to deficiencies in the language of the proposal. Those providing comments and testimony also pointed out various problems associated with the proposed changes and suggested some substantive alternatives. The comments indicated that these problems would have placed undue hardship on certain groups, and this was not the intent of the requirements. Based upon the record established by the January 23, 1978 proposal and additional information made available to the Department, a new proposal was developed.

The proposed rule published in the January 23, 1978, Federal Register was withdrawn on October 12, 1979 (44 FR 58916), and the new proposal was published in the Federal Register (44 FR 59548–59551) on October 16, 1979. The proposal allowed a 60–day comment period which ended December 17, 1979. In response to requests made to the Department and in order to insure that all interested parties had adequate opportunity to comment, a notice was published in the Federal Register (45 FR 1049) on January 4, 1980, which reopened the comment period from January 4 through January 21, 1980.

The following major changes in the official United States standards for grades of meat and the related meat grading regulations were included in the new proposal:

(1) The term "beef carcass" was defined to specify an explanation of the manner in which it should be dressed before being presented for grading.

(2) All meat would be graded in the form of carcasses or sides and only in the establishments in which the animals were slaughtered (except for veal and calf carcasses, which would be graded only after the hide was removed and only in the establishments where such removal occurred). The proposal also provided for grading damaged sides and, upon approval of the FSQS, other exemptions would be authorized.

(3) Beef carcasses would be required to be ribbed at least 10 minutes prior to being offered for grading.

(4) The conditions were specified which would be required to be met for yield grade designations to be removed from gradedidentified beef.

(5) Certain practices designed to alter the ribeye or the fat cover over the ribeye of a beef carcass would be considered fraudulent and deceptive if the carcass was presented for grading.

These major changes are discussed hereinafter under the following subheadings: (1) Beef carcass definition, (2) Location and product form requirements, (3) Ribbing time requirement, (4) Yield grade designation removal, and (5) Alteration of fat cover.

Seventy-four comments were received concerning this proposal. However, 8 of these comments were second or third responses submitted to correct, change, or supplement earlier responses, leaving a total of 66 comments which were evaluated and considered in resolving the proposal. Fifty-six of the comments were from the meatpacking industry. Of these comments, 4 were from national associations, 3 were from regional associations, 7 were from State or local associations, and 42 were from separate industry sources. Five comments were from national or State livestock and farm organizations. Two consumer comments and three comments from government sources (congressional, State, and foreign) also were received.

Reactions to the proposal varied widely, although most comments were generally negative to one or more portions of the proposal. Many comments made reference to only part of the changes proposed or addressed issues which were not germane to the proposed changes. However, many of the comments were substantive and did raise considerations which the Department has carefully evaluated in

the formulation of this final rule. The number of comments was significantly reduced from the 496 comments received on the January 23, 1978, proposal. This reduction may be attributed, in part, to the fact that the Department had carefully considered the comments and recommendations concerning that proposal, and these were reflected in the October 16, 1979, proposal.

Beef Carcass Definition

The proposal attempted to define, for purposes of the beef grading standards, the term "carcass." It was thought that a detailed definition would facilitate uniform application of the standards and prevent possible confusion as to what constitutes a beef carcass. The proposed definition also included an explanation of the manner in which a carcass should be dressed before it could be presented for grading. This proposed definition would have replaced the present carcass definition, "The commercially prepared or dressed body of any animal intended for human food," which is found in Subpart A of the present regulations (7 CFR 2853).

Comments received on the proposed carcass definition were overwhelmingly negative, and many commenters cited specific operational problems that would arise if such a definition was implemented and indicated that the specificity of the definition could prevent the grading of some carcasses which had only minor dressing or cutting deviations. For example, some comments indicated the difficulty of consistently leaving two or less tail vertebrae on the carcass during the dressing process. It is acknowledged that removal of the tail is not a critical aspect of the dressing procedure, and for normal market description purposes it is not necessary to remove it in such a specific manner. Other comments indicated that compliance with the proposed removal of the hind shank at the hock joint would seriously interfere with the mechanical removal of hides. Present dressing practices require that a small portion (approximately 2 inches or less) of the hind shank be left on the carcass to "anchor" the Achilles tendon to the carcass so that the extreme force applied during the hide removal process by downpull-type hide pullers will not pull the carcass off the rail.

Modification of the proposed carcass definition to accommodate the above-mentioned problems and other dressing deviations could satisfy objections raised by commenters. However, this would also increase compliance determination problems that could detract from the required time necessary for meat graders to make grade determinations. Accordingly, the Department will not adopt the proposed definition but will continue its efforts to establish an acceptable uniform carcass description.

Ribbing Time Requirement

Some industry comments opposed the proposed 10-minute minimum period between ribbing and presentation of carcasses for grading. Some were opposed to this requirement because they felt that it should be within the prerogative of the meatpacker to determine presentation time. Other comments indicated that higher costs due to cooler modifications or possible overtime could result from compliance with the requirement. Others felt that since factors such as breed, heredity, cooler temperature, and cooler humidity may influence the length of "bloom" of the grade determining factors, different time requirements for different establishments and/or individual carcasses would have to be recognized to assure uniform grading. In connection with these comments, the Department believes that a minimum time before presentation is needed to insure that the quality characteristics of the ribeye on properly chilled carcasses are evident to the point that appropriate grade determinations can be made on most carcasses when first presented for grading. It has been further determined, based upon the Department's experience, that the 10-minute minimum period between ribbing and presentation of carcasses for grading is necessary to achieve this result. Very few changes in the current operations of most plants should be required as most are already in, or are close to, compliance with this requirement. Therefore, the Department is adopting this requirement.

Location and Product Form Requirements

More comments addressed this proposed change than any of the other proposed changes. Opposition to grading only at point of slaughter and to grading only in carcass form was expressed by many respondents, although the comments were often related to specific instances that might qualify as exceptions to the proposed rule. Slaughterers who ship carcasses between company-owned plants felt they should be allowed to offer these carcasses for grading at the location of their choosing. Meat processors, who indicated they generally purchase ungraded cuts or carcasses, expressed concern that this amendment could greatly reduce their choice of suppliers, limit their ability to merchandise certain cuts in locations which may require grading, or limit their ability to produce product for government, State, or other purchase programs which require graded meat. Some comments from veal processors and slaughterers contained similar concerns and addressed problems unique to their segment of the industry. Although opposition to the changes in location and form requirements was expressed by some representatives of both the slaughtering and processing segments of the industry, other firms and organizations representing these segments and livestock producers supported the change.

As mentioned previously, some comments specifically addressed the possibility of qualifying as exceptions to the requirements. The Department recognizes certain industry practices which preclude either grading only at point of slaughter or only in carcass form. Although it is recognized that these practices occur to a very limited extent, they are accepted as necessary and should not prevent the grading of such products. Examples of such practices which have been brought to the attention of the Department are (a) the necessity of grading hindquarters from carcasses determined to be kosher from which the forequarters are removed and shipped before the carcasses are sufficiently chilled for normal presentation for grading, (b) instances where slaughterers actually chill carcasses in an establishment other than where they were slaughtered, (c) instances where veal processors skin and remove the foresaddle from hide-on carcasses and grade this portion, hold the hindsaddle with the hide-on to prevent extreme dehydration, and then at a later date, skin and present this portion for grading, and (d) instances in which grading cannot be provided in a timely manner to slaughter establishments.

In view of the above, the Department adopts with minor modifications the proposed regulation with respect to location and product form requirements. As adopted, meat of all eligible species shall be graded only in carcass form and only in the establishments in which the animals were slaughtered or initially chilled. However, if grading service cannot be provided in a timely manner to the slaughterer or if the Director of the Meat Quality Division determines that there is good cause for grading in some form other than carcass or for grading properly identified meat at some point other than the point of slaughter or initial chill, exemptions may be granted. Also, hindquarters from kosher carcasses may be graded if it can be

shown that it was necessary to remove the forequarter prior to the time the entire carcass was sufficiently chilled to be eligible for a grade determination. Veal and calf carcasses shall be graded only in the establishment where the hide is removed and only after such removal occurs and they should be offered for grading in the form of carcasses. However, upon approval of the Director of the Meat Quality Division, foresaddles and hindsaddles may be offered for grading if it can be demonstrated that it was necessary to remove, grade, and market one portion of the carcass prior to the presentation of the other portion for grading. To facilitate implementation of this rule and to avoid interruptions of service after the effective date, requests for exemptions should be immediately submitted for consideration to the Director of the Meat Quality Division.

The general limitation of grading only carcasses and only at the point of slaughter or initial chill will have an impact on a very small percentage of the meat which is currently graded. At the present time, although meat may be graded in a number of forms other than carcass, less than one percent of the total volume of meat is graded in such forms. Although processors who need graded cuts for specific contracts will now have to purchase graded product, slauhterers will continue to have the option to apply the official grade identification to only those portions of the carcass which they choose. Thus, processors should still have the opportunity to obtain graded cuts. Adoption of this modified regulation will improve the uniformity of grade determinations by standardizing the conditions under which most meat is graded. This regulation also prevents the grading of cuts which often do not have all the grade determining factors present. However, except for a slight shift in forms or location of grading of some meat which does not currently conform with this regulation, it should have little, if any, economic impact on the industry.

Yield Grade Designation Removal

The proposed regulation would have permitted the removal of the yield grade designation from an officially graded carcass or cut of beef if the surface fat cover (natural or trimmed) is ¾ inch in thickness or less at any measured point. This proposed regulation received considerable comment from industry sources. Two areas received the majority of the comment: the degree of trim required to comply with the regulation and labeling problems associated with extending the requirement to subprimal cuts.

Many of the comments supported the replacement of the present regulation which requires "Substantial trimming" of external fat from specified cuts in order to remove yield grade designations. However, several industry comments indicated that the degree of trim required to permit yield grade designation removal was too stringent. These comments indicated that an "average" fat thickness, after trimming of ¾ inch with a maximum thickness of 1 inch, would be more acceptable and in keeping with current industry practices and cutting procedures. However, the Department believes that the ¾ inch maximum fat thickness, which it has uniformly applied to the "substantial" requirement of the present regulation, is acceptable to most users of the service and, more importantly, it can be more accurately and uniformly determined than an average fat cover over an entire surface area. In addition, the specificity of this provision improves the uniformity of the application of these trimming requirements and should facilitate compliance.

The proposed regulation also would have extended the maximum fat thickness requirement to subprimal cuts in order for yield grade designations to be removed. The comments on this portion of the proposal raised a new issue. Several industry comments focused on possible problems related to labeling. At present, all subprimal and retail cuts, and wholesale cuts which have been substantially trimmed of external fat may have the yield grade designation removed. The proposed change would have required that yield grade designations remain on carcasses and all cuts (other than retail) unless they complied with the specified fat thickness requirement. Industry comments pointed out that, under the current FSQS labeling requirements, for which no changes were proposed, by not continuing to allow subprimal cuts to be labeled with the quality grade designation only, considerable disruption of current industry cutting procedures would occur along with increased expenses associated with complying with the requirement. Current FSQS requirements allow packers to mix subprimal cuts of the same quality grade but with the same or differing yield grades and label shipping containers with the quality grade designation only. Conformance with the proposed regulation would result in the production problems mentioned in the comments. The Department did not specifically address this aspect of the change in either the January 1978 or October 1979 proposals. Also, of the 496 written and 100 oral comments received on the 1978 proposal which also included this provision, only 1 comment mentioned the possibility of this problem existing. Because this labeling change could have an adverse impact on the entire industry and eventually consumers of graded beef due to the disruption of industry cutting procedures and resultant increased production costs, the Department has determined that the proposed change should be revised to prevent this problem.

The revised regulation which is adopted permits the removal of the yield grade designation from officially graded carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts if the external fat (natural or trimmed) is ¾ inch in thickness or less. The wholesale cuts, or combinations thereof, which may qualify for yield grade designation removal by complying with the fat thickness requirement are: round, sirloin, short loin, rib, square-cut chuck, shank, plate, brisket, and flank. Yield grade designations may be removed from all other cuts without trimming of external fat. For labeling and other related purposes, the grade of items from which the yield grade may be removed may consist of the quality designation only. The specified ¾ inch maximum fat thickness will be determined by following the natural contour of the carcass or cut, as measured over the major muscles or bones—excluding the areas of fat at natural muscle junctions commonly referred to as "bridging." the adopted change more clearly specifies the conditions under which yield grade designations may be removed and also increases the items for which such removal is permitted. However, it does not require that yield grade designations be maintained on subprimal cuts as the proposed change required. Although the proposed change would have somewhat increased the information available to purchasers of graded meat, the Department feels that at the present time the cost of providing such information would be greater than the benefits to be derived. The adopted regulations will allow the industry the option to remove yield grade designations from carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts, when the maximum fat cover requirement is met, and yet, provide more complete information to purchasers to these items. The adopted regulation will also clarify the conditions which must be met for yield grade designations to be removed.

With regard to required trimming of subprimal cuts, the Department has determined that this subject will be further studied and, if necessary, will be proposed in a subsequent rulemaking proceeding. This will allow the benefits from this rule adopted to be derived immediately, without delaying a decision on the proposed change regarding trimming of subprimal cuts, until the impact regarding the extension of yield grade identification to subprimal cuts is fully determined.

Alteration of Fat Cover

The Department proposed to clarify the present regulation concerning alteration of the characteristics of the ribeye or the thickness of fat over the ribeye by preventing the grading of carcasses which had been unnecessarily altered, yet allowing the grading of carcasses trimmed to comply with Federal meat inspection requirements. Most comments generally supported this change although some concern was expressed that this would give individual graders arbitrary power to determine if a carcass is eligible for grading. Other comments addressed the possible problem of graders determining whether alternatons were done unnecessarily or to comply with meat inspection requirements. Also, some comments addressed the concern that trimming on the slaughter floor should be allowed rather than restricted, and that graders should be capable of making accurate grade determinations on carcasses so trimmed. Adoption of the amended regulation will not prevent carcasses which are trimmed to comply with Federal meat inspection requirements from being graded. However, the amended regulation, as adopted, should allow graders to continue to make accurate grade determinations and enable the Department to prevent unnecessary alterations of the grade determining factors on carcasses presented for grading.

Other Comments

In addition to comments which did not specifically relate to any of the proposed changes, a few comments were concerned with changes in the regulations dealing with appeal service (7 CFR 2853.19). The only change in this section was the deletion of ". . . wholesale cuts, or other subdivisions of meat originally graded as larger units; and veal and calf carcasses originally graded with hides on." As these items are no longer eligible for a grade determination under either the proposed or adopted changes, it is unnecessary to include them as items for which appeal service cannot be requested.

Options Considered

The following four options were considered by the Department in arriving at the decisions contained herein: (1) the status quo, (2) the January 23, 1978, proposal, (3) the October 16, 1979, proposal, (4) a modification of the October 16, 1979, proposal to reflect public comment. A brief outline of the four options considered follows:

1. *Option I—The Status Quo*—Specifies:

(1) Meat from cattle and sheep may be graded in the form of carcasses or some wholesale cuts.

(2) Yield grade designations may be removed from grade-identified wholesale cuts of beef when external fat cover is substantially trimmed. They may be removed from subprimal and retail cuts without trimming.

This option places no restriction on where meat can be graded. Specific dressing procedures are not outlined, and no minimum time interval between ribbing and grading is specified, although proper chilling is required. The regulations do not provide adequate authority to effectively control actions which alter the ribeye or the fat cover over the ribeye.

2. *Option II—January 23, 1978, Proposal*—Specified:

(1) All meat from cattle and sheep be graded only at the point of slaughter and only in carcass form.

(2) Beef carcasses be ribbed 30 minutes prior to presentation for grading.

(3) The kidneys and all kidney, pelvic and heart fat be removed from beef carcasses prior to grading.

(4) Yield grade designations may be removed from grade-identified beef carcasses and all cuts when the surface fat is trimmed to ½ inch or less.

(5) Beef carcasses be defined as the two sides of a slaughtered animal which result from splitting it lengthwise through its median plane and after removal of (1) the head, (2) the legs, (3) all viscera, including the kidneys and thymus gland, (4) all kidney, pelvic and heart fat, (5) the spinal cord, and (6) all but two tail vertebrae.

Actions designed to alter the ribeye or the fat cover over the ribeye are not explicitly stated as fraudulent in this option.

Opposition to and deficiencies in certain aspects of the January 1978 proposal led to its withdrawal on October 12, 1979, and the issuance of the current proposal on October 16, 1979. The current proposal was drafted in light of testimony received on the January 1978 proposal at five public hearings and during the comment period.

3. *Option III—October 16, 1979, Proposal*—Specified:

(1) All meat will be graded only as carcasses and only in establishments in which the animals are slaughtered (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in establishments where such removal occurs). Provisions will be made for grading damaged sides; and other exemptions may be granted upon special approval of the FSQS.

(2) Beef carcasses be ribbed a minimum of 10 minutes prior to presentation for grading.

(3) Yield grade designations may be removed from grade-identified beef carcasses and all cuts when the surface fat (natural or trimmed) is ¾ inch or less.

(4) Beef carcasses be defined as the two sides of a slaughtered animal which result from splitting it lengthwise through its approximate median plane and after removal of (1) the head, (2) the legs, (3) the viscera (removal of the kidneys and kidney, pelvic and heart fat is optional), and (4) all but two or less vertebrae.

(5) Certain practices designed to alter the ribeye or the fat cover over the ribeye of a beef carcass shall be considered fraudulent and deceptive.

4. *Option IV—October 16, 1979, Proposal Amended to Reflect Public Comment*—Specifies:

(1) All meat will be graded only as carcasses and only in the establishment in which the animal was slaughtered (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in the establishment where such removal occurs). Provisions will be made for grading damaged sides; and other exemptions may be granted upon special approval of the FSQS.

(2) Beef carcasses be ribbed a minimum of 10 minutes prior to presentation for grading.

(3) Yield grade designations may be removed from grade-identified beef carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts if the external fat (natural or trimmed) is ¾ inch or less. Yield grade designations may be removed from all other cuts without meeting the specified external fat requirements.

(4) Certain practices designed to alter the ribeye or the fat cover over the ribeye of a beef carcass shall be considered fraudulent and deceptive.

This option does not technically define a beef carcass as do Options II and III.

The option selected is Option IV. This option corrects deficiencies of, and provides clarification to, Options II and III. The adoption of this option will achieve most of the desired effects of Options II and III.

In consideration of the foregoing, certain sections of the regulations and standards appearing at 7 CFR Part 2853 as they relate to meats, prepared meats, and meat products are amended as set forth below.

Subpart A—Regulations

1. In Section 2853.1, the definitions for "Quality grade" and "Yield grade" are amended to read as follows:

§ 2853.1 Meaning of words.

* * * * *

Quality grade. A designation based on those characteristics of meat which predict the palatability characteristics of the lean.

* * * * *

Yield grade. A designation which reflects the estimated yield of retail cuts that may be obtained from a beef, lamb, yearling mutton, or mutton carcass.

2. The second sentence of § 2853.4 is amended to read as follows:

§ 2853.4 Kind of service.

* * * Class, grade, and other quality may be determined under said standards for meat of cattle, sheep, or swine in carcass form only, except upon approval by the Director upon his determination of good cause and provided that the meat can be identified in conformance with the standards. * * *

3. Section 2853.13, paragraph (b) is amended as follows:

§ 2853.13 Accessibility and refrigeration of products; access to establishments.

* * * * *

(b) Grading service will only be furnished for meat that a USDA grader determines is chilled so that grade factors are developed to the extent that a proper grade determination can be made in accordance with the official standards (Subpart B of Part 2853 (7 CFR Part 2853.102 *et seq.*)). To be eligible for grading, beef carcasses must be ribbed at least 10 minutes prior to being offered for grading. Meat that is presented in a frozen condition shall not be eligible for a grade determination. Meat of all eligible species shall be graded only in the establishment where the animal was slaughtered or initially chilled (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in the establishment where such removal occurs). The Director may grant prior approval for grading at a location other than the establishment of slaughter or initial chill upon notification to the Division if the Branch was unable to provide grading service in a timely manner and that the meat can be identified in conformance with the standards.

§ 2853.17 [Amended]

4. In Section 2853.17, paragraph (a), the words "and wholesale cuts" are deleted.

5. In Section 2853.17, paragraph (c), second sentence, the phrase "and eligible cuts from bull and bullock carcasses" is deleted.

6. Section 2853.19, paragraph (b) is amended as follows:

§ 2853.19 What is appeal service; marking products on appeal; requirements for appeal; certain determinations not appealable.

* * * * *

(b) Grade determinations cannot be appealed for any lot or product consisting of less than 10 similar units. Moreover, appeal service will not be furnished with respect to product that has been altered or has undergone any material change since the original service.

Subpart B—Standards; Carcass Beef

7. Section 2853.102 is revised as follows:

§ 2853.102 Scope.

These standards for grades of beef are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify phrasing of the standards, the words "carcass" and "carcasses" are used to also mean "side" or "sides."

§ 2853.103 [Amended]

8. In Section 2853.103, paragraph (b)(5), the last sentence is deleted.

9. In Section 2853.104, paragraphs (a), (g), and (i) are revised as follows:

§ 2853.104 Application of standards for grades of carcass beef.

(a) The grade of a steer, heifer, cow, or bullock carcass consists of separate evaluations of two general considerations: (1) The indicated yield of closely trimmed (½ inch fat or less), boneless retail cuts expected to be derived from the major wholesale cuts (round, sirloin, short loin, rib, and square-cut chuck) of a carcass, herein referred to as the "yield grade," and (2) characteristics of the meat which predict the palatability of the lean, herein referred to as the "quality grade." The grade of a bull carcass consists of the yield grade only. When officially graded, the grade of a steer, heifer, cow, or bullock carcass consists of both the quality grade and the yield grade. The yield grade designation may be removed from officially graded beef carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts on which the external fat (natural or trimmed) does not exceed ¾ inch in thickness. For purposes of these regulations, wholesale cuts, or combinations thereof, which can qualify for yield grade designation removal are: round, sirloin, short loin, rib, square-cut chuck, shank, brisket, plate, and flank. The yield grade designation may be removed from all other cuts without trimming of external fat. In instances where removal of the yield grade designation is permitted, the USDA grade may consist of the quality grade designation only.

* * * * *

(g) Beveling of the fat over the ribeye, application of pressure, or any other influences which may alter the characteristics of the ribeye or the thickness of fat over the ribeye prevent an accurate grade determination. Therefore, carcasses subjected to such influences shall not be eligible for a grade determination, and the presentation of such carcasses for an official grade determination shall be considered a fraudulent or deceptive practice in connection with the services requested for such carcasses. Carcasses that have had external fat removed in trimming for Federal meat inspection compliance may be graded only if the official grader determines that an accurate grade determination can be made. Although entire carcasses with more than minor amounts of lean removed from the major wholesale cuts (round, sirloin, short loin, rib, or square-cut chuck) shall not be eligible for a grade determination, the remaining portions of these carcasses which are unaffected by the removal of lean shall remain eligible for a grade determination provided a cross section at the 12th-13th rib is available and an accurate grade determination may be made.

* * * * *

(i) To meet the demand of export trade or changing trade practices, grading of carcasses ribbed other than between the 12th and 13th ribs may be approved by the Director. In such cases, grading shall be based on the requirements specified in these standards and shall be consistent with the normal development of grade characteristics in various parts of a

carcass of the quality level involved. When an exception is granted for export trade, such carcasses shall be identified with the word "EXPORT" in such a manner that will clearly distinguish them from other officially graded beef.

* * * * *

§ 2853.105 [Amended]

10. In Section 2853.105, paragraph (b) is deleted and paragraph (c) designated as (b).

§ 2853.106 [Amended]

11. In Section 2853.106, paragraph (e)(1), first sentence, the words "and wholesale cuts" are deleted.

Veal and Calf Carcasses

12. Section 2853.112 is revised as follows:

§ 2853.112 Scope.

These standards for grades of veal and calf are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."

§ 2853.115 [Amended]

13. In section 2853.115, the first sentence in paragraph (d) is deleted; in the first sentence of paragraph (e), the words "or portions of such carcasses" are deleted; and in paragraph (g), the last sentence is deleted.

Lamb, Yearling Mutton, and Mutton Carcasses

14. Section 2853.123, paragraph (c)(5) is revised as follows:

§ 2853.123 Application of standards.

* * * * *

(c) * * *

(5) The yield grade descriptions are defined primarily in terms of carcasses. However, the yield grade standards also are applicable to the grading of sides.

* * * * *

§ 2853.127 [Amended]

15. In Section 2853.127, paragraph (b) is deleted and paragraph (c) designated as paragraph (b).

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624)

Done at Washington, D.C., on July 29, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-23478 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

10 CFR Part 445

Industrial Energy Conservation Program; Filing Annual Reports, Change of Date

AGENCY: Department of Energy.

ACTION: Notice of change of date.

SUMMARY: As required by 10 CFR § 445.25, the Department of Energy (DOE) is hereby providing public notice of a change in the date for filing annual reports on energy efficiency improvement and increased utilization of recovered materials with DOE. Reports required by identified corporations pursuant to 10 CFR § 445.22 and by sponsors of adequate reporting programs pursuant to 10 CFR § 445.23 must be received by DOE August 15, 1980. This change affects the operation of the program in 1980 only and is made to allow sufficient time for exempt corporations and sponsors of adequate reporting programs to meet the reporting requirements of 10 CFR Part 445 (45 FR 10194, February 14, 1980), following DOE's issuance today of the final list of exempt corporations and sponsors of adequate reporting programs.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT:

Tyler E. Williams, Jr., Office of Industrial Programs, Mail Stop 2H-085, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-2371.

Pamela M. Pelcovits, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9516.

Issued in Washington, D.C., July 25, 1980.

Worth Bateman,

Acting Under Secretary.

[FR Doc. 80-23476 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 10]

Delegations of Authority To Conduct Program Activities in Field Offices

Correction

In FR Doc. 80-20857, appearing in the issue of Monday, July 14, 1980 at page 47122, please make the following correction to § 101.3-2.

1. On page 47124, the third column, the last two words in the second line now reading "Region VI" should read "Region IV".

2. On page 47125, the first column, under Part III, Section A, the 15th line from the bottom of the page, line "b" now reading "District Director . . . $75,000" should read "District Director . . . $750,000".

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 436

Disclosure Requirements; Prohibitions Concerning Franchising and Business Opportunity Ventures

AGENCY: Federal Trade Commission.

ACTION: Petitions for exemption filed by Automobile Importers of America, Inc. and American Motors Corporation have been granted.

SUMMARY: On April 18, 1980, the Commission published a request for public comment on petitions for exemption from the requirements of the Franchise Rule that had been filed by several automobile companies. After reviewing the public comment, the Commission has determined that the provisions of Part 436 shall not apply to the advertising, offering, licensing, contracting, sales or other promotion of *dealerships* for the sale of motor vehicles by the following companies: American Motors Corporation, Alfa Romeo, Inc.; American Honda Motor Co., Inc.; BMW of North America, Inc.; Fiat Motors of North America, Inc.; Isuzu Motors Limited; Jaguar Rover Triumph, Inc. [formerly British Leyland Motors, Inc.]; Lotus North America, Inc.; Mazda Motors of America, Inc.; Mitsubishi Motors Corporation; Nissan Motor Corporation in U.S.A.; Peugeot Motors of America, Inc.; Renault USA, Inc.; Rolls-Royce Motors, Inc.; Saab-Scania of America, Inc.; Subaru of America, Inc.; Toyota Motor Sales U.S.A., Inc.; Volvo of America Corporation; Delorean Motor Company; Hyundia Motor Company; Satra Corporation; U.S. Suzuki Motor Corporation; Yamaha Motor Corporation, U.S.A.; and POL MOT.

EFFECTIVE DATE: August 5, 1980.

ADDRESS: Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

John M. Tifford, PM-H-272, Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, DC, (202) 523-3814.

Order Granting Exemption

On April 18, 1980 the Commission published a notice in the Federal Register soliciting comments on petitions filed by the Automobile Importers of America, Inc. on behalf of its members, and by American Motors Corporation (45 FR 26347). These petitions sought an exemption, pursuant to Section 18(g) of the Federal Trade Commission Act, from coverage under the Commission's trade regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunities Ventures." In Accordance with Section 18(g), the Commission conducted an exemption proceeding under Section 553 of the Administrative Procedure Act, 5 U.S.C. 553. The public comment period concluded on May 19, 1980. The Commission has reviewed the petitions and the comments received in response to the notice and concludes that the petitions should be granted with respect to the sale of dealerships for the sale of automobile and related motor vehicles by the parties listed herein and their subsidiaries.

The statutory standard for exemption pursuant to Section 18(g) requires a determination of whether or not the application of the trade regulation rule to any person or class of persons is "necessary to prevent the unfair or deceptive act or practice to which the rule relates." The Commission's Statement of Basis and Purpose which accompanied the promulgation of the franchise rule on December 21, 1978, concluded that deceptive acts or practices in the marketing of franchises generally involved: (i) Misrepresentation of material facts relevant to the nature and value of the franchise; (ii) unsubstantiated claims regarding the potential sales, income, gross or net profit of franchise; (iii) unfair refusal by franchisors to honor refund provisions and (iv) failure to disclose material facts about the franchise offering. By analyzing the setting in which franchises were offered, the Commission identified the following conditions present when franchises were sold that actively contributed to the existence of the above-mentioned unfair or deceptive acts or practices;

(1) The relative lack of business sophistication of the proposed franchisee.

(2) The lack of adequate time for franchisees to review complex franchise agreements prior to establishment of the franchise relationship.

(3) A serious informational imbalance between the franchisor and the franchisee such that the franchisee often is unaware of relevant and essential facts germane to the proposed investment.

The Commission's franchise rule employs a regulatory scheme of pre-sale disclosure of material information in an effort to neutralize the conditions that have created the climate in which unfair and deceptive acts and practices have flourished. The remedy, *i.e.*, pre-sale disclosure of material information, is directed at eliminating the conditions in which consumer abuses are likely to occur. However, if these conditions are not present, then a regulatory remedy designed to eliminate them may be redundant and unnecessary.

Our review of the record in this proceeding indicates that an exemption is warranted. Movants have demonstrated the absence of significant abuse by franchisors of their relationships with automobile dealer franchisees or prospective franchisees in the respects addressed by the rule, and, indeed, the franchisees themselves report that the rule is not necessary to protect them. (See comments of National Automobile Dealers Association.) It should be noted also that the Commission has previously determined (fn. p. 4 *infra*) that the sale of most automobile dealerships does not constitute the sale of a "franchise" within the meaning of the rule, and it might, therefore, be incongruous to apply the rule to a limited number of dealers but not to any others.

Finally, certain other circumstances peculiar to this industry suggest that application of the rule may be unnecessary. Prospective motor vehicle dealers make extraordinarily large investments. As a practical matter, investments of this size and scope involve relatively knowledgeable investors or the use of independent business advisors, and an extended period of negotiation.[1] The record is consistent with the conclusion that the transactions negotiated by such knowledgeable investors over time and with the aid of business advisors produce the pre-sale information disclosure necessary to ensure that investment decisions are the product of an informed assessment of the potential risks and benefits of the proposed investment.

It thus appears that petitioners' present sales transactions are accomplishing, now, what the rule was intended to achieve through the required dissemination of a variety of disclosures. Because (i) the transactions, for the most part, are not covered by the rule, (ii) the conditions most likely to lead to consumer abuses are absent from petitioners' sale of dealerships for the sale of motor vehicles and (iii) such sales transactions include sufficient disclosure to ensure that the prospective investor is in the position to make an informed decision, the Commission finds that the application of the franchise rule to petitioners' sale of dealerships for the sale of motor vehicles is not necessary to prevent the unfair or deceptive acts or practices to which the rule relates. Accordingly, the Commission has determined that the provisions of Part 436 shall not apply to the advertising, offering, licensing, contracting, sale or other promotion of dealerships for the sale of motor vehicles by the following companies or their subsidiaries:

American Motors Corp.
Alfa Romeo., Inc.
BMW of North America, Inc.
Fiat Motors of North America, Inc.
Isuzu Motors Limited
Jaguar Rover Triumph, Inc. (formerly British Leyland Motors, Inc.)
Lotus North America, Inc.
Mazda Motors of America, Inc.
Delorean Motor Company
Satra Corporation
Yamaha Motor Corporation, U.S.A.
Mitsubishi Motors Corporation
Nissan Motor Corporation in USA
Peugeot Motors of America, Inc.
Renault USA, Inc.
Rolls-Royce Motors, Inc.
Saab-Scania of America, Inc.
Subaru of America, Inc.
Toyota Motor Sales U.S.A., Inc.
Volvo of America Corporation
Hyundai Motor Company
U.S. Suzuki Motor Corporation
POL MOT
American Honda Motor Co., Inc.

The record does not provide an adequate basis for exemption of all motor vehicle dealerships or all dealership arrangements entered into by AIA members, regardless of their membership status. Thus, the AIA petition seeks exemption for AIA Associate Members that manufacture tires and other automotive equipment, although there is no record evidence that would support such an exemption. Similarly, the Commission cannot ignore the fact that some AIA members sell motorcycles and similar vehicles through dealers that do not sell their automobiles, and that an exemption for such dealerships is unwarranted in the absence of any factual justification in the record for it. A fair reading of the AIA petition and the record supports exemption only of automobile and

[1] Petitions for Exemption filed by American Motors Corp., Record at 128; Automobile Importers of America, Inc., Record at 95. (All citations to the Exemption Record appear in Volume 215-34-1-15-1.) See also Memorandum in Support of Petition for Exemption filed by General Motors Corp., Vol. 215-34-1-11-1, at 21-22, 27.

related motor vehicle dealerships offered by AIA members and Subscribing Members. The exemption we grant in response to the AIA petition is not intended to cover AIA Associate Members, non-members, or members offering dealerships limited to motocycles and other two wheel vehicles.[2]

It is so ordered.

Issued: July 17, 1980.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-23378 Filed 8-4-80; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 436

Disclosure Requirements; Prohibitions Concerning Franchising and Business Opportunity Ventures

AGENCY: Federal Trade Commission.

ACTION: Petition for exemption filed by oil companies and oil jobbers has been granted with respect to petitioners and others in the petroleum industry.

SUMMARY: On April 18, 1980, the Commission published a request for public comment on petitions for exemption from the requirements of the Franchise Rule that had been filed by several oil companies and oil jobbers. After reviewing the public comment, the Commission has determined that the provisions of Part 436 shall not apply to the advertising, offering, licensing, contracting, sale or other promotion of a "franchise" as the term "franchise" is defined in the Petroleum Marketing Practices Act 15 U.S.C. 2801 *et. seq.*, by all of the petitioners as well as non-petitioners, who engage in similar activities.

EFFECTIVE DATE: August 5, 1980.

ADDRESS: Federal Trade Commission, 6th & Pennsylvania Ave. NW., Washington, D.C. 20580

FOR FURTHER INFORMATION CONTACT: John M. Tifford, PM-H-272, Federal Trade Commission, 6th & Pennsylvania Ave. NW., Washington, D.C. 20580, (202) 523-3814.

[2]The Commission has previously ratified staff advisory opinions to General Motors, Ford Motor Co., and Chrysler Corp. stating that the manner in which they sell automobile dealerships would not constitute a "franchise" within the meaning of the rule. Requests by Subaru of America, Inc. and Toyota Motor Sales U.S.A., Inc. that their independent distributors of dealerships be included in the petitions for exemptions are denied without prejudice to refiling because such requests were received after the close of the public comment period on the AIA petition.

Order Granting Exemption

On April 18, 1980, (45 FR 26356) the Commission published a notice in the Federal Register soliciting comments on petitions filed by the National Oil Jobbers Council, Illinois Petroleum Marketers Association and Texas Oil Marketers Association, all on behalf of their members, and by Shell Oil Company, Atlantic Richfield Company, Exxon Corporation, Mobil Corporation, Union Oil Company of California, Standard Oil Company (Indiana), Getty Refining & Marketing Company, Gulf Oil Corporation, Kerr-McGee Refining Corporation, Standard Oil Company of California, Chevron U.S.A., Inc., Chevron Chemical Company, Phillips Petroleum Company, Crown Central Petroleum Corporation, Ashland Petroleum Company, Standard Oil Company and Sinclair Marketing, Inc. The petitions sought an exemption, pursuant to Section 18(g) of the Federal Trade Commission Act, from coverage under the Commission's trade regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures."

Section 18(g) of the Act provides that an exemption to a trade regulation rule may be granted if coverage is "not necessary to prevent the unfair or deceptive act or practice to which the rule relates." In accordance with Section 18(g) the Commission conducted an exemption proceeding under Section 553 of the Administrative Procedure Act, 5 U.S.C. 553. Following the close of the public comment period on May 19, 1980, the Commission reviewed the petitions, and the public comments received in response to the Federal Register notice. Applying the standard for exemption prescribed by Section 18(g) of the Act, the Commission has concluded that an exemption should be granted as hereinafter described.

The most frequently cited complaint about practices in the petroleum franchise relationship that are part of the Commission's initial rulemaking record involved termination and non-renewal practices.[1] The Commission chose to remedy these practices by requiring pre-sale disclosure, on the theory that if prospective franchisees know the relevant facts, they can make an informed decision about the potential benefits and risks of their proposed investment. Thus, the Commission did not dictate specific changes in the relationship to eliminate any specific practices; rather, the Commission chose to publicize the practices in the belief that the parties, between themselves and operating on the basis of relevant information, could resolve any problems.

Subsequent to the close of the rulemaking record in 1974, Congress passed the Petrolem Marketing Practices Act ("PMPA") 15 U.S.C. 2801 *et seq.* (Supp. II, 1978), effective in June 1978, which specifically regulates the manner in which a petroleum company may terminate or fail to renew an existing franchisee. The PMPA requires pre-sale disclosure to new franchisees of the franchisor's rights to terminate the relationship, and post-termination disclosure of the franchisee's rights under the PMPA to contest the termination. In addition, the PMPA imposes substantive limitations on the termination of dealership agreements entered into after an initial trial franchise with new dealers. The PMPA embodies the Congressional response to the same practices which concerned the Commission. Congress chose to remedy the abuses it found by means of the alternative strategy of dictating a substantive mechanism to mitigate the problem, and by requiring disclosure of termination rights. The Commission also notes that substantive regulations promulgated by the Department of Energy since the close of the initial rulemaking record regulate the allocation of gasoline supplies as well as the price of gasoline to franchisees. The PMPA and DOE regulations appear to have reduced the incentive and means for continued abuses of the kind documented in the original record.

Some of the comments[2] opposing the exemption petition correctly assert that neither the PMPA, the Department of Energy regulations, nor any other federal regulations provide prospective franchisees with the disclosure mandated by the rule. However, these other federal mechanisms cited above are directed at the same goal as the franchise rule; *i.e.*, mitigating the deceptive or unfair practices, but by

[1]Of the 11 complaints in the original rulemaking record dealing with petroleum company abuses, 10 specifically mention insufficient notice of, and grounds for, termination and non-renewal. *E.g.*, Comments of Retail Gasoline Dealers' Association, Inc., of Massachusetts, R. II, 2783; Independent Oil Men's Association of New England, Inc., R. II, 2815; Georgia Association of Petroleum Retailers, Inc., R. II, 697; New Jersey Gasoline Retailers Association, R. II, 684; National Congress of Petroleum Retailers, Inc., R. II, 382, 501 693; R. IV, 1933. (All citations to the rulemaking record follow the format adopted in the Statement of Basis and Purpose for the franchise rule. 43 FR 59622 n. 9 (Dec. 21, 1978).)

[2]*E. g.*, Comments of California Service Station Association, Record at 18; Idaho Service Station Association, Record at 57; Service Station Association of Louisiana, Inc., Record at 59; Virginia Gasoline Retailers Association, Inc., Record at 61; Service Station Dealers of America, Inc., Record at 83. (All citations to the Exemption Record appear in volume 215-34-1-15-1.)

different means; *i.e.*, direct intervention through substantive regulation (and limited disclosure) rather than indirect intervention through disclosure. The sum effect of these other mechanisms is to impose controls over the crucial aspects of the petroleum marketing business, such as termination and non-renewal of dealerships, allocation of supplies and price of product. Under this circumstance, the disclosures required by the franchise rule, become unnecessary in view of the substantive regulation of this particular industry.

While the foregoing mechanisms may not operate perfectly to eliminate all abuses, the record does support the conclusion that the potential for abuse has been sufficiently reduced by the PMPA and DOE regulations as to render coverage by the franchise rule, as drafted, largely duplicative of other federal regulations. The Commission concludes, therefore, that the standard prescribed by Section 18(g) for exemption is met because application of the rule is "not necessary to prevent the unfair or deceptive act or practice to which the rule relates." However, if circumstances change in the future and evidence of renewed misrepresentations in the sale of petrolem franchises reappears on a significant scale, a new rulemaking proceeding may be undertaken that is tailored to the specific needs of the industry. In the interim, if isolated abuses occur, they will be subject to the adjudicative procedures and remedies provided by Section 5 of the FTC Act.

Since the record reflects that the PMPA is primarily responsible for addressing the past practices the franchise rule was designed to prevent, the Commission concludes that an exemption is warranted for those relationships subject to the PMPA's provisions. Consequently, the Commission has determined that the provisions of Part 436 shall not apply to the advertising, offering, licensing, contracting, sale or other promotion of a "franchise," as the term "franchise" is defined by the PMPA, by all of the petitioners. Furthermore, the Commission finds no principled basis to distinguish the same activities when performed by non-petitioners from those performed by petitioners; accordingly, the advertising, offering, licensing, contracting, sale or other promotion of a "franchise," as the term "franchise" is defined by the PMPA, by any non-petitioner also shall be exempt from the rule's coverage.

It is so ordered.

Issued: July 17, 1980.

By The Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-23379 Filed 8-4-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 79N-0017]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Sodium Stearoyl-2-Lactylate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations for sodium stearoyl—2-lactylate to provide for additional uses and functions, establish tolerances for currently regulated uses, revise the name of the additive to sodium stearoyl lactylate, and incorporate the specifications prescribed for it in the "Food Chemicals Codex."

DATES: Effective August 5, 1980; objections by September 6, 1980

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Foods and Drug Administration, Rm. 4-62, 5600 Fisher Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Neal D. Singletary, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 20, 1979 (44 FR 23539), FDA proposed to amend § 172.846 *Sodium stearoyl-2-lactylate* (21 CFR 172.846) by providing for additional uses and functions, establishing tolerances for currently regulated uses, revising the name of the additive to sodium stearoyl lactylate, and incorporating the specifications prescribed for it in the "Food Chemicals Codex." FDA took this action after evaluating the available data and information in two petitions (FAP 1A2684 and FAP 1A2705) submitted by C. J. Patterson Co., 3947 Broadway, Kansas City, MO 64111, and in light of current data and information on the additive. Interested persons were invited to submit their comments on the proposal on or before June 19, 1979.

In the Federal Register of August 21, 1979 (44 FR 48987), FDA extended the comment period on the proposal for 90 days in response to a request by Durkee Foods Division of SCM Corp., and interested persons were invited to submit their comments on or before September 17, 1979.

Three firms submitted comments on the proposal. A summary of the comments and the agency's conclusions follow:

1. All three firms requested an increase in the maximum use level of sodium stearoyl-2-lactylate from the proposed level of 0.2 percent as an emulsifier or stabilizer in liquid and solid edible fat-water emulsion intended for use as substitutes for milk or cream in beverage coffee. Two firms submitted data and information showing that a level of 0.3 percent by weight of the finished edible fat-water emulsion is necessary to produce the intended technical effect in frozen coffee whiteners. The third firm, which submitted no data, would support a use level of 0.4 percent if the technical need for that level was demonstrated by another firm's data.

FDA has evaluated the data and information submitted and concludes that the maximum use level of sodium stearoyl lactylate as an emulsifier or stabilizer in liquid and solid edible fat-water emulsions intended for use as substitutes for milk or cream in beverage coffee should be increased from 0.2 percent to 0.3 percent by weight of the finished edible fat-water emulsion. The agency concludes that the level of 0.3 percent is necessary and sufficient to produce the intended technical effect in frozen coffee whiteners.

2. One firm expressed concern that the conditions for manufacture of sodium stearoyl-2-lactylate prescribed in the April 20 proposal did not conform to the "Food Chemicals Codex."

Inasmuch as the manufacturing process outlined in the "Food Chemicals Codex" is essentially the same as the description presented in § 172.846, the agency does not agree that the prescribed conditions for manufacture for sodium stearoyl lactylate needs to be changed.

3. One firm asked whether sodium stearoyl lactylate used in preparing frozen coffee whiteners would be regulated under this final regulation since the April 20 proposal permitted the additive to be used in "liquid and solid * * * emulsions * * *."

FDA concludes that the use of sodium stearoyl lactylate in preparing frozen coffee whiteners is covered by § 172.846. The agency considers a frozen coffee whitener to be a physical form of a liquid emulsion.

With regard to the proposed use of the additive in cheese substitutes and spreads, the agency has independently concluded that the wording "cheese substitutes and spreads" should be broadened to read "cheese substitutes and imitations and cheese product substitutes and imitations" to more clearly define the products for which the additive is intended.

Having considered the comments received and other relevant information, FDA concludes that the food additive regulations should be amended as proposed, except that (1) the maximum use level of sodium stearoyl lactylate, as an emulsifier or stabilizer in liquid and solid edible fat-water emulsions intended for use as subtitutes for milk or cream in beverage coffee, should be increased from 0.2 percent to 0.3 percent by weight of the finished edible fat-water emulsion, and (2) the wording "cheese substitutes and spreads" should be changed to read "cheese substitutes and imitations and cheese product substitutes and imitations."

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended by revising § 172.846 to read as follows:

§ 172.846 Sodium stearoyl lactylate.

The food additive sodium stearoyl lactylate (CAS Reg. No. 977052–12–2) may be safely used in food in accordance with the following prescribed conditions:

(a) The additive, which is a mixture of sodium salts of stearoyl lactylic acids and minor proportions of sodium salts of related acids, is manufactured by the reaction of stearic acid and lactic acid and conversion to the sodium salts.

(b) The additive meets the specifications of the "Food Chemicals Codex," 2d Ed. (1972) [1] under "Sodium stearoyl-2-lactylate", which is incorporated by reference.

(c) It is used or intended for use as follows when standards of identity established under section 401 of the act do not preclude such use:

(1) As a dough strengthener, emulsifier, or processing aid in baked products, pancakes, and waffles, in an amount not to exceed 0.5 part for each 100 parts by weight of flour used.

(2) As a surface-active agent, emulsifier, or stabilizer in icings, fillings, puddings, and toppings, at a level not to exceed 0.2 percent by weight of the finished food.

(3) As an emulsifier or stabilizer in liquid and solid edible fat-water emulsions intended for use as substitutes for milk or cream in beverage coffee, at a level not to exceed 0.3 percent by weight of the finished edible fat-water emulsion.

(4) As a formulation aid, processing aid, or surface-active agent in dehydrated potatoes, in an amount not to exceed 0.5 percent of the dry weight of the food.

(5) As an emulsifier, stabilizer, or texturizer in snack dips, at a level not to exceed 0.2 percent by weight of the finished product.

(6) As an emulsifier, stabilizer, or texturizer in cheese substitutes and imitations and cheese product substitutes and imitations, at a level not to exceed 0.2 percent by weight of the finished food.

(7) As an emulsifier, stabilizer, or texturizer in sauces or gravies, and the products containing the same, in an amount not to exceed 0.25 percent by weight of the finished food.

(8) In prepared mixes for each of the foods listed in paragraph (c) (1) through (7) of this section, provided the additive is used only as specified in each of those paragraphs.

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 4, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 5, 1980.

(Secs. 201(s), 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371))

Note.—Incorporation by reference approved by the Director of the Office of the Federal Register on July 10, 1973, and is on file at the Office of the Federal Register Library.

Dated: July 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-23303 Filed 8-4-80; 8:45 am]
BILLING CODE 4110-03-M

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037, or examined at the Office of the Federal Register Library.

21 CFR Part 176

[Docket No. 79F-0434]

Indirect Food Additives: Paper and Paperboard Components; 1,3,5-Triethylhexahydro-1,3,5-Triazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The food additive regulations are amended to provide for the safe use of 1,3,5-triethylhexahydro-1,3,5-triazine as an antimicrobial agent in formulations used in the manufacture of paper and paperboard intended for food contact use. This action is being taken in response to a petition filed by R. T. Vanderbilt Co., Inc.

DATES: Effective August 5, 1980; objections by September 4, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: A notice published in the Federal Register of January 8, 1980 (45 FR 1690) announced that a food additive petition (FAP 8B3393) was filed by R. T. Vanderbilt Co., Inc., 30 Winfield St., Norwalk, CT 06855, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of 1,3,5-triethylhexahydro-1,3,5-triazine as an antimicrobial agent in formulations used in the manufacture of paper and paperboard.

The Food and Drug Administration (FDA) has evaluated data in the petition and other relevant material and concludes that the regulations should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting a new item in the list of substances as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of Substances and Limitations

* * * * *

1,3,5-Triethylhexahydro-1,3,5-triazine (CAS Registry No. 7779-27-3)—For use only as an antimicrobial agent for coating, binder, pigment, filler, sizing, and similar formulations added prior to the heat drying step in the manufacture of paper and paperboard and limited to use at a level between 0.05 and 0.15 percent by weight of the formulation.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 4, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 5, 1980.

(Secs. 201(s), 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371))

Dated: July 30, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-23444 Filed 8-4-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 193

[FAP OH5255/R61; FRL 1560-8]

Glyphosate; Tolerances for Pesticides in Food Administered by the Environmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide glyphosate (*N*-(phosophonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on imported or processed olives at 0.1 part per million (ppm). The regulation was requested by Monsanto Agricultural Products Co. This rule establishes a maximum permissible level for residues of glyphosate on olives.

EFFECTIVE DATE: Effective on August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Office of Pesticide Programs, Registration Division (TS–767), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, 202–755–2196.

SUPPLEMENTARY INFORMATION: Notice was published in the Federal Register of April 22, 1980 (45 FR 27009) that Monsanto Agricultural Products Co., 1101 17th St. NW, Washington, DC 20036, had filed a food additive petition (OH5255) with the EPA. This petition proposed the establishment of a food additive tolerance for residues of the herbicide glyphosate (*N*-(phosophonomethyl)glycine) and its metabolite amineomethylphosphonic acid in or on imported processed olives at 0.1 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams(gm)/kilogram (kg) of body weight (bw); two rabbit teratology studies, negative at 30 milligrams (mg)/kg of bw per day (highest dose); a 2-year dog feeding study with a no-observable-effect-level of 300 ppm; a 2-year rat feeding study with an NOEL of 100 ppm; a 3-generation rat reproduction study with an NOEL of 300 ppm (highest level fed); a neurotoxicity (hen) study at 7.5 gm/kg; and a host-mediated assay (negative).

Desirable data that are lacking are a repeat of the teratology study, a teratology study on a second mammalian species, a repeat mutagenicity testing (multi-test evidence), and full exploration of the oncogenic potential. The studies available show that glyphosate has low potential for showing any teratological effects. The lifetime rat and mouse studies suggest glyphosate to have a relatively low oncogenic potential. Two additional oncogenic studies are needed. A further assurance of low risk associated with glyphosate is found in the fact that on a theoretical basis, the exposure via the diet, is relatively low. The petitioner has been notified of the deficiencies and has agreed to furnish data reflecting the required studies.

The acceptable daily intake (ADI) is 0.05 mg/kg of bw/day based on the NOEL of 100 ppm (5 mg/kg of bw/day) in the 2-year rat feeding study using a 100-fold safety factor. Based on a theoretical maximum residue contribution (TMRC) of 0.21 mg/day for a 60-kg person or 7.06 percent of the ADI, tolerances ranging from 0.1 to 15 ppm have previously been established for residues of glyphosate on a variety of raw agricultural and processed commodities. Other approved but unpublished tolerances utilize the ADI of 10.93 percent. The current action utilizes less than 0.01 percent of the ADI. All tolerances for glyphosate utilize 10.93 percent of the ADI.

A regulatory action was pending against glyphosate based on its contamination with *N*-nitrosoglyphosate, but this was resolved since no residues of the contaminant at detectable levels were present in the raw agricultural commodities, nor did it pose a hazard to the applicator. There are no regulatory actions pending against the pesticide and no Rebuttable Presumptions Against Registration (RPAR) criteria have been exceeded.

Since no feed items for the United States are associated with this foreign use, there is no reasonable expectation of residues in meat, milk, poultry, and eggs resulting from this use; therefore 40

CFR 180.6(a)(3) applies. The metabolism of glyphosate is adequately understood, and an adequate analytical method (gas chromatography using a phosphorous-specific flame photometric detector) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerance will protect the public health.

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended [92 Stat. 819; 7 U.S.C. 136].

Any person adversely affected by this regulation may, on or before September 4, 1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708, (A-110), 401 M St., SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

EFFECTIVE DATE: August 5, 1980.

(Sec. 409(c)(1), 72 Stat. 1786, (21 U.S.C. 348(c)(1)))

Dated: July 30, 1980.

James N. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart A of 21 CFR Part 193 is amended by adding paragraph (f) to § 193.235 to read as follows:

§ 193.235 Glyphosate.

* * * * *

(f) A tolerance is established for the combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on imported processed olives at 0.1 ppm.

[FR Doc. 80-23508 Filed 8-4-80; 8:45 am]
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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 207, and 220

[Docket No. R-80-839]

Debenture Interest Rates

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule change provides for an increased debenture interest rate applicable to all home and project mortgages and loans under the National Housing Act (the Act), as amended, except for those loans or mortgages under the Act's section 221(g)(4) provisions, [Housing for Moderate Income and Displaced Families—Transfer of Mortgages), committed or endorsed on or after July 1, 1980. The Secretary of the Treasury determines debenture interest rates in accordance with established procedure and the Act. The intended effect of this rule change is to increase debenture interest rates for appropriate mortgages.

EFFECTIVE DATE: August 5, 1980, retroactive to July 1, 1980.

FOR FURTHER INFORMATION CONTACT: T. J. O'Connor, Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 2202, Washington, D.C. 20410, (202) 755-6310. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Secretary of the Treasury has determined in accordance with the provisions of section 224 of the National Housing Act, as amended, that the interest rate for the month of May 1980 is 9⅞% and has approved the establishment of debenture interest rates at 9⅞% to be effective as of July 1, 1980.

The Secretary of Housing and Urban Development has determined that advance publication and notice and public procedure are unnecessary since the debenture interest rate is set by the Secretary of the Treasury in accordance with a procedure established by statute and that good cause exists for making this change effective as soon as possible.

A Finding of No Significance respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. In addition, the Chairman and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart B—Contract Rights and Obligations

1. Section 203.405 is amended to read as follows:

§ 203.405 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the day the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is higher.

The following interest rates are effective for the dates listed:

	On or after	Prior to—
Effective rate (percent):		
6¾	July 1, 1974	July 1, 1975
7	July 1, 1975	Jan. 1, 1976
7½	Jan. 1, 1976	July 1, 1976
7	July 1, 1976	Jan. 1, 1977
6½	Jan. 1, 1977	July 1, 1977
7¼	July 1, 1977	Jan. 1, 1978
7½	Jan. 1, 1978	July 1, 1978
7⅝	July 1, 1978	Jan. 1, 1979
8	Jan. 1, 1979	July 1, 1979
8¼	July 1, 1979	Jan. 1, 1980
9½	Jan. 1, 1980	July 1, 1980
9⅞	July 1, 1980	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

2. Section 203.479 is amended to read as follows:

§ 203.479 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

	On or after	Prior to—
Effective rate (percent):		
6⅞	July 1, 1974	July 1, 1975
7	July 1, 1975	Jan. 1, 1976
7⅛	Jan. 1, 1976	July 1, 1976
7	July 1, 1976	Jan. 1, 1977
6⅝	Jan. 1, 1977	July 1, 1977
7¼	July 1, 1977	Jan. 1, 1978
7⅛	Jan. 1, 1978	July 1, 1978
7¾	July 1, 1978	Jan. 1, 1979
8	Jan. 1, 1979	July 1, 1979
8¼	July 1, 1979	Jan. 1, 1980
9½	Jan. 1, 1980	July 1, 1980
9⅞	July 1, 1980	

(Sec. 211, 52 Stat. 23; U.S.C. 1715b. Interprets or applies sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709.)

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart B—Contract Rights and Obligations

3. In 207.259 paragraph (e)(6) is amended to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(e) Issuance of debentures. * * * day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

	On or after	Prior to—
Effective rate (percent):		
6⅞	July 1, 1974	July 1, 1975
7	July 1, 1975	Jan. 1, 1976
7⅛	Jan. 1, 1976	July 1, 1976
7	July 1, 1976	Jan. 1, 1977
6⅝	Jan. 1, 1977	July 1, 1977
7¼	July 1, 1977	Jan. 1, 1978
7⅛	Jan. 1, 1978	July 1, 1978
7¾	July 1, 1978	Jan. 1, 1979
8	Jan. 1, 1979	July 1, 1979
8¼	July 1, 1979	Jan. 1, 1980
9½	Jan. 1, 1980	July 1, 1980
9⅞	July 1, 1980	

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart D—Contract Rights and Obligations—Projects

4. Section 220.830 is amended to read as follows:

§ 220.830 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued or as of the date the loan was endorsed for insurance, whichever rate is higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after	Prior to
6⅞	July 1, 1974	July 1, 1975.
7	July 1, 1975	Jan. 1, 1976.
7⅛	Jan. 1, 1976	July 1, 1976.
7	July 1, 1976	Jan. 1, 1977.
6⅝	Jan. 1, 1977	July 1, 1977.
7¼	July 1, 1977	Jan. 1, 1978.
7⅛	Jan. 1, 1978	July 1, 1978.
7¾	July 1, 1978	Jan. 1, 1979.
8	Jan. 1, 1979	July 1, 1979.
8¼	July 1, 1979	Jan. 1, 1980.
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

Issued at Washington, D.C., July 17, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-23577 Filed 8-4-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Parts 203, 220, 221, 222, 226, and 235

[Docket No. R-80-693]

Dollar Limitation Increase for Solar Energy Systems

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This regulation provides for an increase in the dollar limitations by up to 20 percent in the mortgage amount which can be insured if such an increase is necessary to account for the increased cost of a residence due to the installation of a solar energy system.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Coonts, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, S.W., Washington, D.C. 20410. (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 9, 1979, this Department published an interim rule to implement Section 203(b) of the National Housing Act to permit an increase in the dollar limitation of up to 20 percent in the amount which can be insured if such an increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system. For purposes of clarity and incorporation by reference in the programs, a new section (Section 203.18a) was considered appropriate in implementing the statutory change. This increase in maximum dollar limitations is applicable under Sections 203(b), 203(i), 203(n), 233, 244, 245, and 809. In addition to the solar energy system changes, the maximum mortgage amounts in Part 226 have been amended bringing the Section 809 maximum mortgage amount limitations in line with Section 203(b) as required by statute. The Department received two comments in response to the interim rule, both of which have been reviewed, were favorable and would not have any direct bearing on this action.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, in 24 CFR, Part 203, the following interim rules previously adopted at 44 FR 46835, August 9, 1979 are made final:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

1. After § 203.18, add a new Section 203.18a as follows:

§ 203.18a Solar energy system.

(a) The dollar limitation provided in § 203.18(a) may be increased by up to 20 percent if such an increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system.

(b) "Solar energy system" is defined as any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.

2. Amend § 203.18(d)(1) by adding the following sentence at the end thereof:

§ 203.18 Maximum mortgage amounts.

* * * * *

(d)(1) * * *

Such limits may be increased by up to 20 percent if such an increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system as defined in § 203.18a(b).

* * * * *

§ 203.43c [Amended]

3. Amend § 203.43c(g) by adding the phrase, "and § 203.18a" after the phrase "under § 203.18(a)."

4. Amend § 203.45(b)(1) to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) * * *

(1) The limits prescribed by §§ 203.18(a), 203.18(b) and 203.18a or, * * *

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

§ 220.1 [Amended]

5. Part 220 is amended by adding, in § 220.1, "§ 203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

§ 221.1 [Amended]

6. Part 221 is amended by in adding, § 221.1, "203.18a Solar energy systems" after "§ 203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

§ 222.1 [Amended]

7. Part 222 is amended by adding, in § 222.1, "203.18a Solar energy systems" after "203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

PART 226—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES (Sec. 809)

8. Part 226 is amended by revising § 226.4, revising paragraph (a) of § 226.5 and reserving § 226.6.

§ 226.4 Maximum mortgage amount; dollar limitation.

The mortgage shall involve a principal obligation in a dollar amount not in excess of:

(a) 67,500 in the case of a dwelling designed principally for a one-family residence.

(b) 76,000 in the case of a two-family residence.

(c) 92,000 in the case of a three-family residence.

(d) 107,000 in the case of a four-family residence.

§ 226.5 Maximum mortgage amount; loan-to-value limitation.

(a) In addition to meeting the dollar limitation set forth in § 226.4, the mortgage shall be in an amount not exceeding the following:

(1) Approval prior to construction. If the mortgage covers a dwelling approved for mortgage insurance (or for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs) prior to the beginning of construction or a dwelling which was completed more than one year preceding the date of the application for mortgage insurance, the sum of the following percentage of the Commissioner's appraised value of the property, as of the date the mortgage is accepted for insurance:

(i) 97 percent of the first $25,000 of such value (100 percent of $25,000 of such value or the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, whichever appraisal amount or sum is the lesser, in the case of a mortgagor meeting the veteran's qualifications of § 203.18(b)).

(ii) 95 percent of such value in excess of $25,000.

(2) No prior approval. A loan-to-value limitation of 90 percent of the entire appraised value of the property, as of the date the mortgage is accepted for insurance if the dwelling does not meet the requirements in the introductory text of paragraph (a)(1).

* * * * *

§ 226.6 [Reserved]

* * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

§ 235.1 [Amended]

9. Part 235 is amended by adding, in § 235.1, "§ 203.18a Solar energy systems" after "§ 203.18 Maximum mortgage amounts" in the list of sections excluded from incorporation by reference.

(Sec. 3, Pub. L. 75-424, 52 Stat. 9 (12 U.S.C. 1715b); Sec. 7(d) Pub. L. 89-174, 79 Stat. 670 (42 U.S.C. 3535(d))

Issued at Washington, D.C., July 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing Federal Housing Commissioner.

[FR Doc. 80-23632 Filed 8-4-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Parts 207, 213, and 221

[Docket No. R-80-846]

Mortgage and Loan Insurance Programs; Amendments To Make Section 8 Replacement Reserve Provisions Applicable to HUD-Insured Section 8 Projects

Correction

In FR Doc. 80-22906, in the issue of Thursday, July 31, 1980, appearing at page 50731, the effective date in the second column should read:

EFFECTIVE DATE: September 11, 1980.

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26a

[T.D. 7711]

Return Requirements; Temporary Generation-Skipping Transfer Tax Regulations Under the Tax Reform Act of 1976

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides a temporary regulation relating to the filing of returns for the tax on generation-skipping transfers. That tax was introduced by the Tax Reform Act

of 1976. The temporary regulation identifies the person required to make the return of tax and prescribes the time and manner of filing, and the form used to make the return. It affects trustees and beneficiaries of generation-skipping trusts.

DATE: The regulation applies generally to any generation-skipping transfer made after June 11, 1976.

FOR FURTHER INFORMATION CONTACT: Robert H. Waltuch of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 Attention: CC:LR:T 202-566-3287, not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

This document provides a temporary generation-skipping transfer tax regulation under Chapter 13 of the Internal Revenue Code of 1954 (Code), as added by section 2006(a) of the Tax Reform Act of 1976 (Pub. L. 94-455; 90 Stat. 1879) to provide rules for making the necessary return of tax. The temporary regulation provided by this document will remain in effect until superseded by final regulations on this subject. By a separate document appearing elsewhere in this issue of the Federal Register, the regulation promulgated in this document is also proposed to be prescribed as final Generation-Skipping Transfer Tax Regulations (26 CFR Part 26) under section 2621 of the Code.

Provisions of the Regulation

The generation-skipping transfer tax return consists of a statement filed with the Internal Revenue Service within the time specified in the regulation. The due date depends upon the type of event which gives rise to liability for the tax.

With a taxable distribution, generally it is the distributee of the money or property who must make the return. To enable the distributee to file the return, the distributee must first obtain information from the trustee and in many cases from the Service. Therefore, the regulation requires the trustee to file an information return with the Service and to send a statement to the distributee identifying the portion of a distribution that is taxable. If the distributee needs any additional information to compute the tax imposed on the taxable distribution, the distributee may obtain this information by filing a written request with the Service. After the Service has supplied the requested information, the distributee is then able to compute the tax and file the return. In the case of a taxable termination, the trustee must make the return and if the trustee is in need of additional information the trustee may also file a written request with the Service. Furthermore, the regulation provides guidelines for situations when there is no trustee (as in the case of a trust equivalent) or when the distributee is unable to act for him or herself.

Under the temporary regulations, generally section 643(b) income is computed on an annual basis in determining whether distributions from the trust are taxable distributions. If during the taxable year of the trust there are distributions and a termination, then section 643(b) income is computed for two short periods. This rule will curtail the possible abuse that could arise when the trustee anticipates that a taxable termination will occur during the taxable year of the trust and therefore distributes money or property to a younger generation beneficiary equal in value to what the anticipated section 643(b) income will be for the year. But for this rule, a trustee could distribute unearned but anticipated income prior to a taxable termination and it would not be taxable because of the current income exclusion, nor would it be on hand to be included in the trust on the date of the taxable termination.

Drafting Information

The principal author of this regulation is Robert H. Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Waiver of Procedural Requirements of Treasury Directive

There is need for expeditious adoption of the provisions contained in this document because of the need for immediate guidance to persons required to file a return of tax. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Adoption of regulations

A new part 26a, Temporary Generation-skipping Transfer Tax Regulations under the Tax Reform Act of 1976, is hereby added to Title 26 of the Code of Federal Regulations, and the following temporary regulation is hereby adopted:

PART 26a—TEMPORARY GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT

Sec.

Authority: Sections 2622 and 7805, Internal Revenue Code of 1954 (90 Stat. 1887, 68A Stat. 917, 26 USC 2621, 7805).

§ 26a.2621-1 Generation-skipping transfer tax return requirements.

(a) *In general.* Chapter 13 of the Code imposes a tax on generation-skipping transfers, as defined in section 2611. The tax applies to both taxable distributions and terminations of either interests in property or powers over property. For purposes of this part, the term "distributee" means a younger generation beneficiary who actually receives money or property (or has money or property applied for his benefit) from a generation-skipping trust or trust equivalent. This section contains rules for making the required tax return.

(b) *Person required to make return—*

(1) *In general.* Except as otherwise provided in this section, the following person must make the required tax return, Form 706-B, Generation-Skipping Transfer Tax Return—

(i) The distributee in a taxable distribution, as defined in section 2613 (a),

(ii) The trustee in the case of a taxable termination, as defined in section 2613 (b), or

(iii) The distributee in the case of a generation-skipping transfer involving a generation-skipping trust equivalent.

(2) *Entity.* If a trust, estate, corporation or partnership is the recipient of money or property in a taxable distribution, then those persons who are assigned to a generation under section 2611 (c)(7) shall be treated as distributees to the extent of their interest in the entity and are responsible for filing the return and paying the tax.

(3) *Exceptions*—(i) *Minors.* If a distributee is otherwise required to make a return, but the distributee is a minor, a return must be made by the minor or must be made for the minor by the minor's guardian or other person charged with the care of the minor's person or property.

(ii) *Returns made by agents.* The return of tax may be made by an agent if, by reason of disease, injury, illness or absence from the country, the person liable for making the return is unable to make it. Mere convenience is not sufficient reason for authorizing an agent to make the return. If the return is made by an agent, the return must be ratified by the principal within a

reasonable time after such person becomes able to do so. If not ratified, it will not be the return required by the statute. The ratification must be in the form of a statement executed under penalties of perjury by the principal and filed with the Internal Revenue Service office with which the return was filed. It must state specifically that the return made by the agent has been carefully examined and that the principal ratifies the return. If a return is signed by an agent, a statement fully explaining the inability of the principal must accompany the return.

(iii) *Returns filed by fiduciary or executor on behalf of distributee.* A fiduciary acting as the guardian or committee of an insane person must make the required return. If a distributee who would be required to make the return for a transfer dies after the transfer occurs but before the return is filed, the executor or other person in possession of the decedent's assets is required to make the return.

(4) *Special rules*—(i) *Joint and undivided interests with distributees making return.* If paragraph (b) (1) of this section requires the distributee to make the tax return and if more than one distributee of a deemed transferor receives an interest in or power over property jointly, or simultaneously receives other undivided interests in property, all of the distributees must jointly make the return. Should any distributee fail to join in making the return, the remaining distributees must make a return for the entire transfer. This return must identify the distributee not joining in it and the property interests passing to that distributee. The tax is to be computed on the entire transfer and is to be paid in full by the distributees making the return, unless their liability under paragraph (h)(1) of this section is less than that amount, in which case an amount equal to their full liability must be remitted. This payment does not, however, relieve the non-filing distributee of any liability under state law to the person who filed the return for tax attributable to property received by the non-filing distributee.

(ii) *Multiple trustees.* In the case of a taxable termination, if there is more than one trustee of a generation-skipping trust, the return may be made by any one of them. The return must identify the trustees not joining in it. Payment of the entire amount of tax is due with the return.

(c) *Time and manner of filing return*—(1) *In general.* Form 706–B must be filed with the Internal Revenue Service office with which an estate or gift tax return of the deemed transferor must be filed. It must be filed—

(i) Except as provided in paragraph (c)(1)(ii) of this section, in the case of a taxable distribution or termination that occurs before the death of the deemed transferor, on or before the expiration of 6 months after the close of the taxable year of the trust (or in the case of a trust equivalent, the close of the deemed transferor's taxable year in which the transfer occurred).

(ii) In the case of a taxable distribution or termination that occurs within the same taxable year as the death of the deemed transferor, or any time after the death of the deemed transferor, on or before the later of the expiration of 6 months after the last day allowed for filing the estate tax return (including extensions), or 6 months after the close of the taxable year of the trust (or in the case of a trust equivalent, the close of the distributee's taxable year in which the transfer occurred).

When, under section 2613(b), any transfer is deemed to occur later than it actually does, the time for filing the return is to be measured from the date on which the transfer is deemed to occur (see also paragraph (k) of this section for initial filing date).

(2) *Transfers within 3 years of death of deemed transferor.* If a deemed transferor dies within 3 years after a generation-skipping transfer has occurred, an amended return must be filed for the transfer. The due date for the return is determined as if the prior transfer occurred at the same time as the deemed transferor's death and the tax must be recomputed as if the transfer had occurred immediately after the deemed transferor's death. Only one amended return need be filed by each distributee who filed previously. It must include all transfers that occurred within 3 years prior to the deemed transferor's death and any increase in tax must be paid by that distributee. If the rules under § 26a.2621–1(g)(2) (relating to a distribution and a termination occurring during the same taxable year) apply, then those persons required to file a return under § 26a.2621–1(b) because of a distribution in a short period (described in paragraph (g)(2) of this section) and an amended return for transfers within 3 years of death are required to file only one return which includes all the transfers that occurred during the 3-year period.

(d) *Form of return.* Form 706–B must be filed in accordance with its instructions.

(e) *Requirement of return where no tax is due.* A return of tax for every generation-skipping transfer, as defined in section 2611(a), and every transfer that would be a generation-skipping transfer but for the application of section 2613 (a)(4)(A) or (b)(5)(A), must be made as provided in this section. This is so even if no tax liability arises from a given transfer.

(f) *Information return*—(1) *General rule.* In the case of a generation-skipping transfer, the trustee must complete and file Form 706–B (1), *Information Return by Trustee for a Taxable Distribution or Termination From a Generation-Skipping Trust,* with the same Internal Revenue Service Center with which the distributee must file Form 706–B. Only one Form 706–B is required to be filed for younger generation beneficiaries having the same deemed transferor. In addition, the trustee must complete and send Form 706–B (2), *Beneficiary's Share of a Taxable Distribution From a Generation-Skipping Trust,* to each distributee required to file Form 706–B within the time the trustee is required to file Form 706–B (1).

(2) *Time for filing.* If the due date of the 706–B is determined under § 26a.2621–1(c)(1)(i), then Form 706–B(1) must be filed on or before the fifteenth day of the third month following the close of the taxable year of the trust. If the due date of Form 706–B is determined under § 26a.2621–1(c)(1)(ii), then Form 706–B(1) must be filed on or before the later of the fifteenth day of the third month following the close of the taxable year of the trust, or the fifteenth day of the third month following the last day allowed for filing the estate tax return.

(g) *Taxable distributions*—(1) *Annual return.* The return required by this section must include all taxable distributions received by the distributee from a trust that occurred during the taxable year of the trust. For the sole purpose of determining the rate at which a taxable distribution is taxed, all taxable distributions that relate to the same deemed transferor and that are from the same or different trusts which have the same taxable year are treated as occurring simultaneously during the taxable year (or short period) and the rules under section 2602 apply in computing the tax on each.

(2) *Exception.* If, in addition to taxable distributions occurring during the taxable year of the trust, there is also a taxable termination which is not the result of the death of the deemed transferor, then for the purpose of determining whether distributions exceed the amount of section 643(b) income, section 643(b) income is computed separately for each of two periods. The first period begins on the first day of the taxable year of the trust and ends on the day immediately preceding the day on which the taxable

termination occurs (or is deemed to occur). The second begins the day the taxable termination occurs (or is deemed to occur) and ends on the last day of the taxable year. If the termination is the result of the death of a deemed transferor, the first period ends immediately before the termination occurs (or is deemed to occur) and the second period begins immediately after the termination occurs (or is deemed to occur). The amount of section 643(b) income for each period is then determined as if each short period were a short taxable year. If after computing section 643(b) income for each period, distributions during a period exceed section 643(b) income for that period, then the return must be filed for the year if the distribution of the money or property meets the definition of a taxable distribution. If after computing section 643(b) income for the first short period the income exceeds the amount distributed, then the excess is treated as earned during the second short period.

(3) *Examples.* This paragraph may be illustrated by the following examples.

Example (1). Assume A creates a generation-skipping trust with the income and/or corpus payable to his child B and his grandchildren C and D (the children of B) for their joint lives and the life of the survivor, and upon the death of the last survivor to the grandchildren of B per stirpes. Assume that the grandchild exclusion has been utilized and that all section 643(b) income has been distributed previously. During the year 1990 C received $40,000 from the trust and D received $110,000. B has made no gifts during his lifetime and there have been no other generation-skipping transfers. Since C and D both have the same deemed transferor, the transfers are treated as occurring simultaneously and the tax is computed in the following manner:

(1) Fair market value of property transferred to C & D	$150,000
(2) Prior generation-skipping transfers	0
(3) Adjusted taxable gifts	0
(4) Taxable estate	0
(5) Total	$150,000
(6) Tax on amount on line 5	$38,800
(7) Tax due from C (40,000)/(150,000)x38,800	$10,347
(8) Tax due from D (110,000)/(150,000)x38,800	$28,453

Example (2). Assume A creates a generation-skipping trust with the income and/or corpus payable in the sole discretion of the trustee to his child B, grandchild C, and great grandchild D for their joint lives and for the lives of the survivors. Upon the death of the last survivor the trust corpus is to be distributed to A's great great grandchildren per stirpes. The trust is a calendar year taxpayer. On January 1, 1990, the trustee distributes $20,000 to C. On June 1, 1990, B dies. Section 643 (b) income for the full year is $30,000, one-half ($15,000) of which was earned between Jan. 1, 1990, and June 1, 1990. Thus, under paragraph (c) $5,000 ($20,000 minus $15,000) of the $20,000 distribution is a taxable distribution.

(h) *Liability for tax*—(1) *Distributee.* If the tax imposed is not paid when due, each distributee (whether or not required to file a return) that receives property from the trust at the same time as or any time after a generation-skipping transfer is personally liable for the tax under section 2603(a)(1)(B) as a distributee to the extent of an amount equal to the fair market value of the property received determined as of the date of the distribution.

(2) *Trustees.* In the case of a taxable termination, if a trustee is required to make the return, the trustee is personally liable for the tax imposed on the transfer if the tax is not paid when due.

This liability applies whether or not a trustee joins in making the tax return in situations involving multiple trustees or makes the return when it is the sole trustee. If a trustee pays the tax determined to be due based on written data furnished by the Service, the trustee is not personally liable for any tax exceeding the amount determined to be due based on that data. This limit on a trustee's personal liability applies only if all the required information that was furnished to the Service by the trustee (or trustees) was accurate and complete. An increase in tax based on a higher property valuation than that claimed by the trustee is, for example, the result of inaccurate information and therefore the trustee will be liable for any increase in tax.

(3) *Lien on property.* The tax imposed by section 2601 is a lien on all property transferred in a generation-skipping transfer until the tax is fully paid or becomes unenforceable by reason of lapse of time. The lien attaches at the time of the generation-skipping transfer and is in addition to the lien for taxes under section 6321. Thus, for example, if property passes to more than one person in a simultaneous transfer as described in section 2602(b), the property passing to each person is liable for the full amount of tax caused by the total transfer.

(i) This designation is not used.

(j) *Request to Internal Revenue Service for information*—(1) *In general.* A trustee or distributee may, before making a generation-skipping transfer tax return, request in writing that the Internal Revenue Service supply it with a statement showing—

(i) The amount of the deemed transferor's adjusted taxable gifts within the meaning of section 2001(b) as modified by section 2001(e),

(ii) The amount of the deemed transferor's taxable estate and the estate tax thereon before allowance of any credits,

(iii) The amount of prior generation-skipping transfers with respect to the deemed transferor,

(iv) The amount of prior generation-skipping transfers that occurred within three years prior to the deemed transferor's death and the amount of the generation-skipping transfer tax paid with respect to these transfers,

(v) The amount of generation-skipping transfer tax imposed before the allowance of any credits with respect to prior generation-skipping transfers,

(vi) The amount of State death tax credit allowed on the deemed transferor's estate tax return and the amount of State death tax credit allowed on prior generation-skipping transfer tax returns,

(vii) The amounts necessary to complete Schedule F, Credit for Tax on Prior Transfers,

(viii) The amount of the grandchild exclusion that has been used for transfers to a grandchild of the grantor,

(ix) The amount of any taxable distributions or taxable terminations that occurred during the same taxable year and that were made from other trusts having the same deemed transferor, and

(x) Any other data that may be needed to complete Form 706-B, *Generation-Skipping Transfers Tax Return.*

(2) *Filing of request.* The request for the information specified in paragraph (j)(1) of this section must be in writing and signed by any person required to file the return. It must be addressed to the Internal Revenue Service office with which an estate or gift tax return of the deemed transferor would be filed. It should be filed not less than 90 days before the due date of the generation-skipping tax return for the transfer involved. If the request is filed less than 90 days before the due date of the return, the failure to obtain the information will not be considered reasonable cause for failing to file a timely return or to pay the tax under section 6651. The written request should include the following information:

(i) The name and taxpayer identification number of the deemed transferor and of the grantor;

(ii) A statement of the specific information requested from the Service;

(iii) In the case of a trustee or other agent, a certified copy of its appointment.

(k) *Initial filing date.* Notwithstanding any other provision of these regulations, the time for filing the Form 706-B shall

be the date determined under paragraph (c) of this section or February 5, 1981, whichever is later.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Secs. 2622 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1887, 68A Stat. 917, 26 U.S.C. 2622, 7805))

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: July 18, 1980.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

[FR Doc. 80-23608 Filed 8-4-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to California State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The State of California has made two changes (supplements) to its occupational safety and health program, which were submitted to the Occupational Safety and Health Administration (OSHA) for approval. California operates its program pursuant to approval by federal OSHA. OSHA must also approve any substantive changes to the State's program. This notice announces the approval of the changes. The first change involves changes to the California program to allow it to interface with two Occupational Health Centers established by the University of California. That supplement also outlines the related purposes for which grant funds will be used. The other describes a new project called the Hazard Alert System (HALTS). HALTS is a computer data base of toxicologic and epidemiologic information that is being developed as an early warning system to alert employers, employees, employee representatives, and others to hazards or potential hazards of substances that may be used in the workplace.

EFFECTIVE DATE: July 25, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia O. Horn, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-8045.

SUPPLEMENTARY INFORMATION:

Background

The California Occupational Safety and Health Plan was approved under Sec. 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and part 1902 of this Chapter on April 24, 1973 (38 FR 10710). Part 1953 of this Chapter provides procedures for the review and approval of State plan change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Descriptions of the Supplements

A. Occupational Health Centers

During the 1978 session of the California Legislature, a bill was passed to establish occupational health centers affiliated with regional schools of medicine and public health. This supplement describes the ways in which Cal/OSHA will interface with these centers.

Cal/OSHA will purchase from the centers research, clinical, and laboratory services which are beyond the capability of the Cal/OSHA program. Four categories of services that will be contracted to the centers are:

1. Training/Education—for training industrial hygiene staff.
2. Consultative Services—for dealing with and following up on emergency situations and for help in designing studies of occupational exposures.
3. Clinical and Analytical Services—for providing medical assessment of specific occupational exposures and analytical tests beyond the scope of current DOSH staff.
4. Applied Study Services—for conducting special testing for exposure investigation to determine health effects.

This supplement calls for one epidemiologist and two industrial hygienists, plus one clerical position, for liaison activities to apply the research and investigative operations of the faculty of the centers to Cal/OSHA functions in evaluating health risks and in developing occupational health standards. Their primary function of liaison with the occupational health centers includes providing technical expertise enabling DOSH to deal more effectively with problems of determining health risks, administering arrangements for services purchased from the centers, and monitoring the centers' activities in relation to purchased services. As a result of this function, these positions are expected to strengthen the research and compliance operations of Cal/OSHA. By maintaining technical competence on information developed by the centers, they will have the capability for assessing and documenting health hazards as a means for developing new or revised health standards; for developing criteria for and performing health hazard research geared to the program's specific standards and enforcement responsibilities; and for providing internal technical consultation to the Cal/OSHA program. Organizationally these positions will form the technical development group within the Research and Standards Development Unit. This supplement was submitted as a plan change on March 17, 1980.

B. Hazard Alert System (HALTS)

The second supplement, which was also established by legislation passed by the 1978 legislature, describes the Hazard Alert System (HALTS), a repository of current data on toxic materials and harmful physical agents in use on potentially in use in places of employment.

Located in Berkeley, the system is administered jointly by the Departments of Industrial Relations and Health Services to reinforce the administration of the State's OSH Act and to create the capability for recommending the development of occupational health standards. An interagency agreement outlines the separate responsibilities of the two agencies as well as their mutual responsibilities and relationships. It calls for one technical position in the Department of Industrial Relations' Division of Occupational Safety and Health. Through this position, the Cal/OSHA program will have liaison with the Hazard Alert System. This technical linkage will assure effective use of the repository's findings in Cal/OSHA compliance and standard development activities, as well as assessment of the need for special studies and investigation of problems unrelated to specific enforcement actions.

HALTS is being developed as a multidisciplinary program (composed of specialists from such fields as toxicology, epidemiology, medicine, health administration, data processing, and information science) for collecting and organizing toxicologic and epidemiologic information on hazardous substances in California workplaces and channeling this information to workers, employers, and policy makers. Policies and procedures are being developed to

assure that the repository uses and does not duplicate the resources of the Federal government and other States. This supplement was submitted as a plan change on January 23, 1980.

Location of the Plan and its Supplements for Inspection and Copying

A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations:

Office of the Directorate of Federal Compliance and State Programs, Room N-3619, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Office of the Regional Administrator, OSHA, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102

California Occupational and Safety and Health Administration, 455 Golden Gate Avenue, San Francisco, California 94102

Public Participation

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Occupational Health Centers and the Hazard Alert System were established by the California legislature in accordance with the procedural requirements of the State legislative process which included public hearings. In addition, the Assistant Secretary finds that these projects are consistent with the standards-setting, training and education, voluntary compliance and research functions contained in the approved plan which were previously made available for public comment. Good cause is therefore found for approval of the supplements without public comment and notice.

Decision

After careful consideration, the California plan supplements described above are hereby approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, Subpart K of 29 CFR 1952 is amended by adding new paragraphs (d) and (e) as follows:

§ 1952.175 Changes to approved plans.

* * * * *

(d) In accordance with Subpart E of Part 1953 of this Chapter, California's liaison with the Occupational Health Centers, implemented on April 25, 1979, was approved by the Assistant Secretary on July 25, 1980.

(e) In accordance with Subpart E of Part 1953 of this Chapter, the California Hazard Alert System, implemented in July, 1979, was approved by the Assistant Secretary on July 25, 1980.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 21st day of July, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-23338 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 763

Rules Governing Public Access; Entry Regulations for Kaho'olawe Island, Hawaii

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: This rule sets forth regulations governing entry upon Kaho'olawe Island, Hawaii. These regulations limit entry upon Kaho'olawe Island to authorized persons because the island is used as a target area for bombing and gunnery practice in order to maintain and improve combat readiness of United States military forces.

EFFECTIVE DATE: August 5, 1980.

ADDRESS: Any written comment on these regulations should be sent to: Commander Third Fleet, Pearl Harbor, Hawaii 96860.

FOR FURTHER INFORMATION CONTACT: Commander Third Fleet (Code 01K), Pearl Harbor, Hawaii 96860, Telephone No. (808) 472-8209.

SUPPLEMENTARY INFORMATION: Entry Regulations for Kaho'olawe Island, as they existed prior to this revision, were published for advance public notice on January 4, 1978. On January 27, 1978 final publication was made, at which time continuing public comment with respect to the regulations was invited by the Department of the Navy. It has been determined, in accordance with 32 CFR 296 and 701.57, that advance publication of these regulations for additional public comment prior to their adoption is impracticable and unnecessary since the nature and national importance of naval operations on Kaho'olawe Island, as well as the dangerous conditions existing there, mandate the immediate, uninterrupted effectiveness of these regulations. Interested persons, however, are again invited to comment in writing on these regulations. All written comments received will be considered in making subsequent amendments or revisions to Subpart A of Part 763, 32 CFR, or the regulations upon which they are based; and changes may be initiated on the basis of comments received.

Therefore, Title 32, CFR, is hereby revised as follows:

PART 763—RULES GOVERNING PUBLIC ACCESS

Subpart A—Entry Regulations for Kaho'olawe Island, Hawaii

Sec.

Authority. 50 U.S.C. 797; DOD Dir. 5200.8 of August 20, 1954; 5 U.S.C. 301; 10 U.S.C. 6011. 32 CFR 700.702; 32 CFR 700.714; EXEC. ORDER NO. 10436, 3 CFR, 1949-1953 Comp. p. 930, (1958).

Subpart A—Entry Regulations for Kaho'olawe Island, Hawaii

§ 763.1 Purpose.

The purpose of this Subpart is to promulgate regulations for entry to Kaho'olawe Island, Hawaii, and its adjacent waters.

§ 763.2 Definitions.

For the purpose of this Subpart, Kaho'olawe Island includes that portion reserved for naval purposes by Executive Order No. 10436 of February 20, 1953.

§ 763.3 Background.

(a) Kaho'olawe Island is used by the armed forces of the United States as a bombing and gunnery training range under authority granted by Executive Order No. 10436. Training operations frequently involve the use of live ordnance creating an obvious danger to persons on or near the Island. Moreover, a large amount of unexploded ordnance is present on Kaho'olawe Island and in adjacent waters.

(b) Individuals who enter the Island without authority expose themselves to extremely hazardous conditions. In addition, the presence of unauthorized persons on Kaho'olawe Island or in adjacemt waters is likely to interfere with the use of the island for military training. Accordingly, it is necessary to prohibit entry to Kaho'olawe Island except under the controlled circumstances set forth in this Subpart.

§ 763.4 Entry restrictions.

(a) Entry by any person upon Kaho'olawe Island for any purpose is prohibited unless the entrant has obtained advance authorization from Commander Third Fleet.

(b) Entry by any person into the restricted waters adjacent to Kaho'olawe Island for any purpose is prohibited without advance authorization from Commander Third Fleet. This restriction applies to all waters described in 33 CFR § 204.223(4).

§ 763.5 Entry procedures.

(a) Persons not otherwise authorized by Commander Third Fleet to enter Kaho'olawe Island or its adjacent waters may request permission to do so by writing to: Commander Third Fleet, Pearl Harbor, Hawaii 96860.

(b) Each request for entry shall state the purpose of the requested visit, the number of individuals for whom entry is sought, mode of transportation, expected arrival time, desired duration of stay, and the destination of all persons while on the Island or in the adjacent waters, and designation of persons in charge of the group. In evaluating the request, the factors just enumerated will be weighed against training commitments, safety requirements, and the amount and cost of military supervision necessitated by a granting of the request. Requests for entry will be considered on an individual basis. Because of the time required to process a request, it should be submitted as early as possible before the desired date of the visit. If a request is granted, the permission to enter Kaho'olawe authorizes one visit only and shall not be construed as authorization for more than one entry unless the authorization itself specifically states otherwise. Moreover, entry pursuant to advance consent which is not in accordance with the conditions and terms permitted by Commander Third Fleet shall be deemed a violation of this Subpart.

§ 763.6 Violations.

(a) Any person who violates this Subpart is subject to prosecution under Title 18, United States Code, Section 1382, which provides in relevant part:

> Whoever . . . goes upon any . . . naval . . . reservation . . . for any purpose prohibited by law or lawful regulation . . . shall be fined not more than $500 or imprisoned not more than six months, or both.

(b) Additionally, persons who violate this Subpart are subject to prosecution under the Internal Security Act of 1950 (50 U.S.C. 797), violations of which may result in a maximum penalty of imprisonment for one year, or a fine of $5,000, or both.

Dated: July 30, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-23545 Filed 8-4-80; 8:45 am]

BILLING CODE 3810-71-M

VETERANS ADMINISTRATION

38 CFR Part 21

Education Benefits; Flight Training

AGENCY: Veterans Administration.

ACTION: Final Regulation.

SUMMARY: The regulation states more fully the rules applied by the Veterans Administration and the State approving agencies with regard to flight training. These rules have been applied in substantially the same form for some time, but the public has not been able to review them in a single publication. The inclusion of this material in the regulations will inform all interested persons and reduce confusion as to what must be done to approve courses for Veterans Administration educational assistance allowance.

EFFECTIVE DATE: July 25, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 13128-13131 of the FEDERAL REGISTER of February 28, 1980, there was published a notice of intent to amend part 21 to state more fully Veterans Administration policy concerning flight training.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The Veterans Administration received six letters containing several comments and suggestions.

One writer found the regulations "clear, understandable and reasonable." He recommended their adoption without change.

Several writers stated that they thought these regulations were circumventing the provision of law (38 U.S.C. 1782) which prohibits any agency of the Federal government from supervising or controlling a State approving agency.

Although this regulation has been included in an area of Title 38, Code of Federal Regulations which generally deals with approvals, the regulation does not itself deal with approvals for the most part, but instead contains provisions which ensure that training is given in compliance with Federal law. The Veterans Administration, State Approving Agencies and flight schools long have followed these provisions which are based, in part, upon regulations promulgated by the Federal Aviation Administration. The specific sections of the law which the Veterans Administration administers that support the various provisions of the regulation are stated in the regulation itself.

One person thought that the records which schools must keep would violate the Privacy Act. Of course, the Veterans Administration is bound by the Privacy Act. However, the law (38 U.S.C. 1790(c)) states that, "notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance . . . as well as the records of other students which the Administrator determines necessary to ascertain institutional compliance with the requirements [of the law], shall be available for examination by duly authorized representatives of the Government." The records required by this regulation are those the Administrator has determined are necessary to ascertain a flight school's compliance with the law.

This same provision of the law is also the reason flight schools are required to keep individual instructor records and to disclose enrollment under Part 61, Title 14, Code of Federal Regulations. One commenter objected to these requirements.

The same commenter objected to the requirement that flight schools give credit for prior training. He stated this was contrary to Federal Aviation Administration regulations. Although Part 141, Title 14, Code of Federal Regulations does not require this, it also does not prohibit this. The law (38 U.S.C. 1775(b) and 1776(c)) which the Veterans Administration administers requires that schools give credit for prior training. Accordingly, this provision is retained in the final regulation.

One commenter stated that in light of VA-sponsored legislation this proposal is ill-timed. Presumedly, he was referring to the fact that for several years the Veterans Administration has favored eliminating payments for flight training. Flight training has not been eliminated, however. These regulations are necessary to administer this program.

Another commenter complained that standards for employment and graduation, which he said were contained in the regulation, were more stringent than the standards for veterans in other types of programs. He stated that this would inhibit the recruitment, training and employment of pilots.

The Veterans Administration has no desire to inhibit the employment of pilots. This letter is somewhat puzzling since there are no employment criteria in the regulation. The Veterans Administration, therefore, sees no reason to change the regulation.

Another writer thought the statement that flight schools must keep copies of medical certificates to support a veteran's prior training, required the school to have on hand medical certificates for training the veteran may have had at another flight school. This is not the case. The school should keep only copies of medical certificates needed to support training taken at the school.

Two writers objected to the records flight schools are required to keep because they thought the records were duplicative.

In order for payments to be made to veterans for flight training, the veteran and an official of his or her flight school must certify the flight instruction furnished the veteran each month. The certification includes the type of instruction, horsepower, hours, the rate the veteran was charged per hour and the total amount he or she was charged.

This certification ensures that veterans in flight training are neither underpaid nor overpaid but are paid correctly. The records mentioned in the regulation are necessary to verify the accuracy of the certification.

For example, the same writer who was concerned about medical certificates did not think that it is necessary for flight schools to keep invoices since they are required to certify charges anyway. The Veterans Administration appreciates this point of view. However, it has been the agency's administrative experience that flight schools have certified incorrect charges on the monthly certification. For the most part this was done inadvertently, but in some cases this was done deliberately. These errors were discovered only when Veterans Administration employees checked the invoices. Therefore, the agency has decided to retain this requirement in the final regulation.

Another writer stated that keeping a veteran's daily flight log is too burdensome. It is true that the veteran's flight log duplicates somewhat the progress log. However, information in the flight log such as the total time of flight, type and identification of aircraft, and instruction received from the flight instructor, can be used to cross-check the progress log. Both logs can be used to verify the monthly certification of flight training. Accordingly, the Veterans Administration has decided to include this requirement in the final regulation.

The proposed amendment to § 21.4263 is deemed proper, and is hereby approved.

Approved: July 25, 1980.

Max Cleland,

Administrator.

§ 21.4262 [Amended]

1. Section 21.4262 is amended to delete the word "he" and to add the words "he or she" in paragraphs (b)(6) and (c) (2) and (4) and to delete the word "him" and to add the words "him or her" in paragraph (b)(7) and (c)(7).

2. Section 21.4263 is revised to read as follows:

§ 21.4263 Flight training—38 U.S.C. ch. 34, ch. 32.

(a) *Eligibility.* Veterans and service persons who are basically eligible to receive educational assistance allowances under the provisions of either chapter 34 or chapter 32, title 38, United States Code, may receive educational assistance for flight training provided that the individual also:

(1) Possesses a valid private pilot's certificate, except for flight training under paragraph (b)(3) of this section, but if the individual possesses a valid higher license, such as commercial pilot's license, he or she will be deemed to meet this requirement, and

(2) Meets the medical requirements of a commercial pilot's license, except the individual training in a course specified under paragraph (b)(3) of this section. A student pursuing an ATP (Airline Transport Pilot) course must have a first-class medical certificate. Students training in a course specified under paragraph (b)(3) of this section shall possess the medical certificate required by the educational institution granting the degree. In all other courses at least a second class medical certificate is required. The certificate shall be approved by the FAA (Federal Aviation Administration) and a copy shall be maintained by the school. Any benefits paid during a period after a medical certificate expires will be considered an overpayment subject to recovery. (38 U.S.C. 1677 (a))

(b) *Objective—general.* Pursuit of flight training may be approved if the training is:

(1) Generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation,

(2) Generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation, as provided in paragraph (c) of this section, or

(3) Given by an educational institution of higher learning for credit toward a standard college degree which is being pursued by the individual. (38 U.S.C. 1677 (a))

(c) *Ancillary flight objective.* A student may be authorized to pursue flight training when such training is generally recognized as ancillary to the pursuit of a vocation other than aviation.

(1) He or she must possess a valid private pilot's license and meet medical requirements necessary for a commercial pilot's course.

(2) The training may consist of any advanced flight course, approved by the State approving agency, that will aid in the practice of the chosen profession or vocation. A determination of the sufficiency of the purpose which the student sets forth as the reason for seeking to pursue ancillary flight training is a question of fact to be decided on an individual basis. In most cases, the student's own statement will be the only evidence to be considered: for example, a physician, lawyer, rancher, or salesperson may need to fly a private plane in connection with the conduct of the profession or business and may need an instrument rating so as not to be limited by visual flight conditions, or a multi-engine rating in order to fly a company-owned aircraft (38 U.S.C. 1677(a))

(d) *Optional ratings.* Educational assistance may be paid for glider, free balloon or aerobatic flight training leading to a vocational objective. If a veteran or inservice student requests a commercial pilot's program in gliders or free balloons in order to add one of those ratings to an existing commercial pilot's certificate or wishes to pursue an approved special curriculum in aerobatics, he or she must establish that the purpose in taking the course is vocational rather than recreational or avocational. Evidence submitted by the student may include, but is not limited to, statements from the flight school or from a prospective employer of the student.

(1) If the student already holds a commercial pilot's certificate for glider and requests a flight instructor course for glider, the program may be approved, since it may be presumed that the student's purpose in taking the course is vocational.

(2) If the student applied for training in a commercial pilot's (free balloon)

course and shows an objective of flight instructor (free balloon), the student will not be required to furnish justification that the course is vocational since the holder of a commercial pilot's (free balloon) certificate has authority to give instruction in free balloon. (38 U.S.C. 1677(a))

(e) *Combined flight courses.* (1) Under Part 141, Title 14, Code of Federal Regulations, the FAA (Federal Aviation Administration) regulations, revised, effective November 1, 1974, students may receive both a commercial pilot's certificate and an instrument rating upon successful completion of the commercial pilot's course. Appendix D, Part 141, Title 14, Code of Federal Regulations includes the ground and flight instruction for the private pilot's course (Appendix A) and ground and the flight instruction for the instrument course (Appendix (C).

(2) If the school elects to include all the training specified in the instrument course (Appendix C) in its commercial piolt's course, and so states in the training course outlined, the student may then be issued a graduation certificate for the instrument rating course, and, after meeting the experience requirements of Section 61.65(e), Title 14, Code of Federal Regulations, (200 hours), apply for an instrument rating. The student may elect to take both the commercial flight test and instrument flight test on the same day and, after successful completion of both tests, be issued an unlimited commercial pilot's certificate.

(3) If the school does not include all of the instrument training in the commercial pilot's course, the student, upon completion of the FAA practical tests, will recieve a commercial pilot's certificate with cross-country and night-flight limitations. The separate instrument course of revised Appendix C, Part 141, Title 14, Code of Federal Regulations, may still be approved for veterans and inservice students who completed the commercial pilot's course under old Part 141, Title 14, Code of Federal Regulations which was effective prior to November 1, 1974, who received a limited commercial pilot's certificate under revised Part 141, Title 14, Code of Federal Regulations, or who are enrolling in the instrument course under the ancillary course provisions. (38 U.S.C. 1677)

(f) *Application.* An individual applying for a course of training consisting exclusively of flight training must include on the application all courses generally accepted as necessary to reach the objective of the student. Although more than one course may be included in a program, the courses may be taken sequentially only. The applicant must complete a commercial pilot's course before enrolling in any other flight course, except where advanced courses are approved as ancillary to the pursuit of a vocation other than aviation. (38 U.S.C. 1671).

(g) *Prior training.* (1) A flight school must grant appropriate credit for all previous training and shorten the veteran's flight course proportionately for Veterans Administration purposes even when an FAA regulation indicates that it does not have to do so. The flight school to which the veteran transfers will determine the amount of credit to be granted.

(2) Although the law does not define "appropriate credit", a pattern of not granting adequate credit is a violation of 38 U.S.C. 1775(b) or 1776(c)(4). If any school consistently abuses its discretion in this respect, the Veterans Administration will refer the matter to the appropriate State approving agency.

(3) An eligible veteran or inservice student holding a commercial pilot's certificate (rotorcraft) may pursue training to qualify for a general commercial pilot's certificate, including fixed-wing aircraft, by either enrolling in a regular commercial pilot's course (airplane), or in a special add-on course to qualify for an airplane rating. If he or she enrolls in a regular commercial pilot's course (airplane), the school must grant appropriate credit and shorten the course accordingly. Although credit is granted, this method usually requires more hours and is, therefore, more expensive than enrolling in a special add-on-course for the rating. In a like manner, a person with a fixed-wing rating may pursue training to qualify for a rotorcraft rating. If a school offers an approved add-on course for commercial pilots in which an eligible veteran may enroll to reach the objective, he or she will not be permitted to enroll at the school in the regular commercial pilot's course unless the regular course will be less expensive after credit is allowed for prior training.

(4) A former military pilot with the equivalent of a commercial pilot's certificate and instrument rating may obtain an FAA commercial pilot's certificate and instrument rating without flight examination within 12 months after release from active duty flying status. If he or she does not apply within the 12-month period, he or she may need refresher training before taking the flight examination. No Veterans Administration benefits may be paid for any such refresher training taken within the 12 months immediately following discharge, since the person qualifies for the commercial pilot's certificate and instrument rating without a flight examination. However, such a person may be paid for up to 6 months' refresher training if the refresher training takes place more than 12 months after discharge.

(i) Flight instructor and ATP ratings are not given by the FAA, on the basis of military experience only, without flight examination. Therefore, former military pilots may be enrolled in approved flight instructor and ATP training courses, for such enrollment is not considered refresher training. Flight schools must grant appropriate credit to former military pilots.

(ii) A veteran who held an FAA certificate before or during service (such certificate having been canceled or surrendered) may receive educational assistance for refresher training to again qualify for the same grade certificate. Such refresher training must meet the requirement of updating the veteran's knowledge and skill in order to cope with technological advances while he or she was in service, as required by § 21.4230(c)(2). The veteran may receive either the equivalent of 6 months educational assistance or the equivalent of the number of months of educational assistance necessary for the veteran to complete the course which will qualify him or her for the same grade certificate, whichever is less. (38 U.S.C. 1671, 1682(d))

(h) *Requirements for approval.* For the purpose of this section a flight school is a school or entity to which the FAA has issued either a pilot school certificate or a provisional pilot school certificate specifying each course the school is approved to offer under Part 141, Title 14, Code of Federal Regulations, as revised. Thus, a military aero club, air carrier or institution of higher learning with the proper certificate is a flight school for the purpose of this section.

(1) The proper State approving agency for approving a flight course shall be determined by § 21.4250. An aero club, established, formed and operated under authority of service department regulations as a nonappropriated sundry fund activity, is an instrumentality of the Federal Government. Consequently, approval of flight courses offered by such aero clubs shall be under the authority of the Administrator. See § 21.4150(f). (38 U.S.C. 1771, 1772)

(2) A course of flight training leading to a standard college degree may be approved regardless of whether the institution of higher learning offering the course is a flight school. Such a course may include private pilot training, but may not be approved unless the requirements of § 21.4253 or 21.4254, as appropriate, are met. Except for courses

which include private pilot training an institution of higher learning which is also a flight school may also seek approval under paragraph (h)(3) of this section. (38 U.S.C. 1775, 1776).

(3) Except as provided in paragraph (h)(2) of this section no private pilot or test course offered pursuant to Appendixes A and B, Part 141, Title 14, Code of Federal Regulations, as revised, may be approved. Except for flight courses offered by institutions of higher learning which are approved under paragraph (h)(2) of this section, other flight courses of a flight school may be approved by the appropriate State approving agency when the school has submitted a written application and the State approving agency determines that all of the following requirements are met by the school and the course(s):

(i) The provisions of § 21.4253(a) or 21.4254(c) are met. (38 U.S.C. 1775, 1776)

(ii) The courses are offered under Part 63 or Part 141, Title 14, Code of Federal Regulations, as revised. (38 U.S.C. 1677)

(iii) The course is approved by the FAA. (38 U.S.C. 1677)

(iv) The flight school courses meet all the requirements of § 21.4251.

(A) Notwithstanding the fact that the FAA will permit flight schools to conduct training at a base other than the main base of operations if the requirements of FAA regulation, section 141.91, Title 14, Code of Federal Regulations, revised, are met, the requirements of § 21.4251 must be applied to a course offered at a satellite base.

(B) A private pilot's course is not similar in character to any advanced flight course within the meaning of the exception to the 2-year operation requirement of 38 U.S.C. 1789(b)(2). Any advanced flight course may be considered to be similar in character to any other advanced flight course.

(C) A period during which training has been offered pursuant to part 61, Title 14, Code of Federal Regulations, will be considered in determining whether the course meets the requirements of § 21.4251. (38 U.S.C. 1789)

(v) The school has, and enforces, standards of conduct and progress for students. The standards are to be stated in writing as part of the application for approval. (38 U.S.C. 1674)

(vi) The school has an adequate system of records. Records to be kept should consist of at least the following:

(A) A copy of the private pilot's license of each eligible veteran,

(B) Evidence that each eligible veteran has completed any prior training which may be a prerequisite for the course,

(C) A copy of the medical certificate required by paragraph (a)(2) of this section for the course being pursued by each eligible veteran as well as copies of all medical certificates (expired or otherwise) needed to support all periods of prior instruction,

(D) Each eligible veteran's daily flight log or copy thereof,

(E) Each eligible veteran's permanent ground school record,

(F) A progress log for each eligible veteran,

(G) An invoice of flight charges for individual flights,

(H) Daily flight sheets identifying records upon which the 85–15 percent ratio may be computed,

(I) A continuous hour meter record for each aircraft,

(J) Invoice or flight tickets signed by the student and instructor showing hour meter reading, type of aircraft and aircraft identification number,

(K) An accounts receivable ledger,

(L) Individual instructor records,

(M) Engine log books,

(N) A record for each student above the private pilot level stating the name of the course in which the student is currently enrolled and indicating whether the student is enrolled under Part 61, Part 63, or Part 141, Title 14, Code of Federal Regulations, as revised,

(O) Records of tuition and accounts which are evidence of tuition charged and received from all students,

(P) All other records required by Part 141, Title 14, Code of Federal Regulations, as revised. (38 U.S.C. 1790 (c))

(vii) If a flight school offers more than one course leading to the same objective, the course should be appropriately identified in the school's bulletin and in all school records. (38 U.S.C. 1772)

(viii) All flight instruction, preflight briefings and postflight critiques and ground school training in the course are given by the flight school operator, by persons he or she employs, or under suitable arrangements between the school and another school or entity such as an independent contractor or a local community college. Ground school training may be given through a ground school facility operated jointly by two or more flight schools in the same locality. See § 21.4233(e). (38 U.S.C. 1677)

(ix) All ground school training connected with the course is in residence under the direction and supervision of a qualified instructor providing an opportunity for interaction between the students and the instructor. A mere statement by the school that an instructor is available for questions does not satisfy this requirement. The flight school operator may not leave the obtaining of such instruction to the individual student. (38 U.S.C. 1677)

(x) The requirements of § 21.4233(e) must be met for all contracted flight instruction and ground school training.

(A) The responsibility for providing the instruction lies with the flight school which seeks approval for the flight course. The degree of affiliation between the flight school and the individual group, or other school which actually does the instructing, should be such that all charges for instruction are made by, and paid to, one entity having jurisdiction and control over both the flight and ground portions of the program. All reports of attendance and certifications of charges must be made by this single entity.

(B) The contracted portion of the flight course must meet all the requirements of § 21.4201 independently for each subcontractor. (38 U.S.C. 1772)

(i) *Hourly limitations.* A flight course approved pursuant to paragraph (h)(3) of this section shall be approved only for those hours of instruction generally considered necessary for a student to obtain an indentified vocational objective. This requirement is met only if the number of hours approved does not exceed the maximum set forth in paragraph (i) (1) through (3) of this section. An eligible veteran may receive training for up to 10 percent more hours than are approved as part of a course whenever this is permitted by § 21.4277. Flight instruction may never be substituted for ground training. (38 U.S.C. 1652(b))

(1) *Flight instruction.* The maximum number of hours of flight instruction which may be approved for a flight course shall not exceed the number of hours in the course outline approved by the FAA plus, for courses which require the student to lease an aircraft for the final flight test after the approved course has been successfully completed, a maximum of 2 hours payable at the solo rate for the final flight test for each certificate or rating for which the flight course provides training. (38 U.S.C. 1652(b))

(2) *Ground school.* The ground training portion of a flight course may include two forms of ground training instruction: ground school and preflight briefings and postflight critiques. The minimum hours for ground training, as specified in Appendixes C through H, Part 141, Title 14, Code of Federal Regulations, as revised, refer only to ground school and not to preflight briefings and postflight critiques. If the ground school training consists of units using kits containing audio-visual equipment, quizzes and examinations, the maximum number of units approved

shall not exceed the number on the course outline approved by the FAA. For all other ground school training, the number of hours of training shall not exceed the number of hours on the course outline approved by the FAA. (38 U.S.C. 1652(b))

(3) *Preflight briefings and postflight critiques.* Hours spent in preflight briefings and postflight critiques need not be approved by the FAA.

(i) If these hours are on the FAA-approved outline, the maximum number of hours of preflight briefings and postflight critiques which may be approved shall not exceed the number of hours on the outline.

(ii) If these hours are not on the FAA approved outline, they may not be approved unless the State approving agency finds that the briefings and critiques are an integral part of the course. The maximum number of hours of preflight briefings and postflight critiques which may be approved for these courses may not, when added together, exceed 25 percent of the approved hours of flight instruction. (38 U.S.C. 1652(b))

(j) *Charges.* Charges for tuition and fees shall be approved by the appropriate State approving agency for each flight course. (38 U.S.C. 1772)

(1) The approved charges for tuition and fees shall be based upon the charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay. Charges for books, supplies and lodging may not be reimbursed. (38 U.S.C. 1677(b))

(2) For the ground school portion of ground training, the State approving agency should approve group charges or unit prices if audio-visual equipment is used. For the preflight briefings and postflight critiques, the State approving agency should approve individual instructor rates for individual training flights. An average charge per hour based upon total hours and cost of all training given on the ground may not be approved. (38 U.S.C. 1677(b))

(3) When solo hours are included for the leasing of an aircraft for the final flight test, the solo charge should be noted in the approval. (38 U.S.C. 1677(b))

(4) A veteran or group (all or part of which are veterans) owning an airplane may lease it to an approved flight school and have exclusive use of the aircraft for flight training. The aircraft should meet the requirements prescribed for all airplanes to be used in the course and should be shown in the approval by the State approving agency. The leasing arrangement should not result in charges for flight instruction for those owning the plane greater than charges made to others not leasing an aircraft to the school. (38 U.S.C. 1677(b))

(5) If membership in a flight club entitles a veteran to flight training at less than the standard rate, his or her educational allowance will be based on the reduced rate. No payments will be made for the cost of joining the flight club, since it is not a charge for the flight course. (38 U.S.C. 1677(b))

(k) *Substitute aircraft.* Except for minor substitutions a veteran enrolled in a flight course may train only in the aircraft approved for that course. If a particular aircraft is not available for some compelling reason, the veteran may be permitted to train in an aircraft different from that approved for the particular course, provided the aircraft substituted will adequately meet the training requirements for this particular phase of the course. Substitutions should be explained on the monthly certifications of flight training. If this shows that the charge for the substituted aircraft is different from the charge approved for the regular aircraft, the reimbursement will be based on the lesser charge. When substitution becomes the practice rather than the exception, payments will be suspended by the Veterans Administration, and the veterans and the school notified. The matter will be referred by the Veterans Administration to the State approving agency for appropriate action. (38 U.S.C. 1677, 1773(a))

(l) *Enrollment limitations.* The 85–15 percent ratio requirement set forth in § 21.4201 must be met by flight courses before new enrollments may be approved. (38 U.S.C. 1673(d))

[FR Doc. 80-23549 Filed 8-4-80; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300023A; FRL 1560-6]

Aluminum Hydroxide; Tolerances and Exemption From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This Rule establishes an exemption from the requirement of a tolerance for the inert (or occasionally active) ingredient aluminum hydroxide in pesticide formulations. The regulation was requested by Ralph Fogleman. This regulation will permit the registration of pesticide formulations containing aluminum hydroxide.

DATE: Effective on August 5, 1980.

ADDRESS: Send comments to Gary Burin, Hazard Evaluation Division (TS–769), Office of Pesticide Programs, Rm. 816, Crystal Mall #2, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gary Burin, telephone 703–557–7351.

SUPPLEMENTARY INFORMATION: Notice was published on May 30, 1980 (45 FR 36439) that several interested person proposed to amend 40 CFR 180.1001 by exempting aluminim hydroxide, which is an inert (or occasionally active) ingredient in pesticide formulations from tolerance requirements. No comments or requests for referral to an advisory committee were received by the Agency with regard to this notice. It has been concluded that the amendment will protect the public health and, therefore, that the amendment to the regulation should be adopted as set forth below.

Any persons adversely affected by this regulation may on or before September 4, 1980 file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M Street, SW, Washington, DC 20460.

Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408 (e), 62 Stat. 514, (21 U.S.C. 346a(e))

Dated: July 30, 1980.

James N. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart D of 40 CFR Part 180 is amended by alphabetically inserting "Aluminum hydroxide * * *" in the table in paragraph (c) of § 180.1001 to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Aluminum hydroxide		Diluent, carrier.
* * * * *		

[FR Doc. 80-23547 Filed 8-4-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 180

[PP 9E2261/R255; FRL 1560-5]

Prometryn; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide prometryn on pigeon peas at 0.25 part per million (ppm). The amendment to the regulations was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of prometryn on pigeon peas.

EFFECTIVE DATE: Effective on: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, 202/426-0223.

SUPPLEMENTARY INFORMATION: The EPA published on May 19, 1980, (45 FR 32744) a notice of proposed rulemaking in response to a pesticide petition (PP 9E2261) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Puerto Rico. The petition proposed that 40 CFR 180.222 be amended by the establishment of a tolerance for residues of the herbicide prometryn (2,4-bis (isopropylamino)-6-methylthio-*s*-triazine) in or on the raw agricultural commodity pigeon peas at 0.25 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded therefore, that the proposed amendment to 40 CFR 180.222 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington, DC 20460. Such objections should specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 5, 1980.

(Sec. 408(d)(2), 68 Stat. 514, (21 U.S.C. 346a(e))

Dated: July 30, 1980.

James N. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically adding pigeon peas at 0.25 ppm to the table in § 180.222 to read as follows:

§ 180.222 Prometryn; tolerances for residues.

* * * * *

Commodity; and Part per million: Pigeon peas—0.25.

[FR Doc. 80-23546 Filed 8-4-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 180

[PP 9F2223/R262; FRL 1560-7]

Glyphosate; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities olives at 0.1 part per million (ppm) and bananas (including plantains) at 0.2 ppm. The regulation was requested by Monsanto Agricultural Products Co. This rule establishes a maximum permissible level for residues of glyphosate on olives and bananas.

EFFECTIVE DATE: Effective on August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Office of Pesticide Programs, Registration Division (TS-767), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202/755-2196.

SUPPLEMENTARY INFORMATION: Notice was published in the Federal Register of July 16, 1979 (44 FR 41329) that Monsanto Agricultural Products had filed a pesticide petition (PP 9F2223) with the EPA. This petition proposed the establishment of tolerances for the combined residues of the herbicide glyphosate (*N*—(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities olives at 0.1 part per million (ppm) and bananas (including plantains) at 0.2 ppm.

The petitioner subsequently amended the petition by submitting a revised Section F, withdrawing the proposal for olives at 0.1 ppm. (A related document establishing a food additive tolerance for residues of the herbicide in or on imported and processed olives at 0.1 ppm appears elsewhere in today's Federal Register).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (gm)/kilograms (kg) of body weight (bw); a 90-day rat feeding study with a no-observed-effect-level (NOEL) of 2,000 ppm; a 90-day dog feeding study with a NOEL of 2,000 ppm; two rabbit teratology studies, negative at 30 mg/kg of bw/day (highest dose); a 2-year dog feeding study with a NOEL of 300 ppm; a 2-year rat feeding study with a NOEL of 100 ppm; a 3-generation rat production study with a NOEL of 300 ppm (highest fed); a neurotoxicity (hen) study, negative at 7.5 gm/kg; and a host-mediated assay (negative).

Desirable data that are lacking are a repeat of the teratology study, a teratology study on a second mammalian species, a repeat of mutagenicity testing (multi-test evidence) and full exploration of the oncogenic potential. The studies available show that glyphosate has low potential for showing any teratological effects. The lifetime rat and mouse

studies suggest glyphosate to have a relatively low oncogenic potential. Two additional oncogenic studies are needed. A further assurance of low risk associated with glyphosate is found in the fact that on a theoretical basis, the exposure via the diet is relatively low. The petitioner has been notified of the deficiencies and has agreed to furnish data reflecting the required studies.

The acceptable daily intake (ADI) is 0.05 mg/kg of bw/day based on a NOEL of 100 ppm (5 mg/kg of bw/day) in a 2-year rat feeding study using a 100-fold safety factor. Based on a theoretical maximum residue contribution (TMRC) of 0.21 mg/day for a 60 kg person or 7.06 percent of the ADI, tolerances ranging from 0.1 to 15 ppm have previously been established for residues of glyphosate on a variety of raw agricultural and processed commodities. Other approved, but unpublished tolerances, utilize the ADI of 10.78 percent. The current action utilizes 0.15 percent of the ADI. All tolerances for glyphosate utilize 10.93 percent of the ADI.

A regulatory action was pending against glyphosate based on its contamination with N-nitrosoglyposate, but this was resolved since no residue of the contaminant at detectable levels were present in the raw agricultural commodities, nor did it pose a hazard to the applicator. There are no regulatory actions pending against the pesticide and no Rebuttable Presumption Against Registration (RPAR) criteria have been exceeded.

Since no feed items for the United States are associated with this foreign use, there is no reasonable expectation of residues in meat, milk, poultry, and eggs resulting from this use. The metabolism of glyphosate is adequately understood, and an adequate analytical method (gas chromatography using a phosphorous-specific flame photometric detector) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerance will protect the public health.

Any person adversely affected by this regulation may within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M Street, SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on August 5, 1980.

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a(d)(2))

Dated: July 24, 1980.

Douglas D. Compt,

Acting Deputy Assistant Administrator, Office of Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting bananas in § 180.364 to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

* * * * *

Commodity	Parts per million
• • • • •	
Bananas (including plantains)	0.2
• • • • •	

* * * * *

[FR Doc. 80-23509 Filed 8-4-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Reimbursement for Costs of Approved Internship and Residency Programs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the regulation governing Medicare payments to providers of services for their costs of approved educational activities. Under the current regulation, providers are required to deduct all grants designated for specific education programs from their costs of those programs in calculating their costs that are reimbursed by Medicare. Under the amended regulation, providers will not be required to deduct grants for primary care internship and residency programs. The rule is intended to avoid nullifying the purposes of specific grants for these programs.

The amended rule will also apply to Medicaid payments in those States that pay for costs of educational activities on the same basis as Medicare.

EFFECTIVE DATE: January 1, 1978.

The reporting requirements in this regulation are subject to clearance by the Office of Management and Budget under the Federal Reports Act of 1942, and shall not be effective until that clearance is obtained. The Department will publish a notice on (60 days after publication) advising the public of the outcome of the OMB review.

FOR FURTHER INFORMATION CONTACT: William Goeller (301) 597-1802.

SUPPLEMENTARY INFORMATION:

Background

Under Medicare, a provider of services (a hospital, skilled nursing facility or home health agency) is reimbursed on the basis of the costs it incurs in furnishing services to Medicare beneficiaries. Current Medicare regulations specify that, in determining the costs reimbursed under Medicare, the provider may include its net costs of educational activities approved in accordance with the regulations at 42 CFR 405.421. Net cost is currently determined by deducting all grants, tuition, and specific donations from the provider's incurred costs for the educational activity (42 CFR 405.421(b)(2)). However, we have found that these deductions undermine the purpose of grant programs designed to support primary care internship and residency programs. Specifically, the deduction of a grant reduces the provider's costs recognized for Medicare reimbursement, thereby preventing the provider from realizing the full benefit of the grant. We believe this thwarts one of the purposes of title VII of the Public Health Service Act, which is to foster the development of programs designed to train physicians in primary care specialties. Therefore, we have changed the regulation to specify that deductions will not be made for grants and donations received to support these programs. Instead, if hospital revenues for these programs exceed cost, HCFA will notify grant donors so they may make adjustments if called for.

Summary of Changes

To deal with the problem that arises under the current regulation, we are amending that regulation to create an exception to the current policy for primary care grants. In addition, we are

clarifying the explanation of how the net cost of approved educational activities is calculated. The changes we are making were explained in a Notice of Proposed Rulemaking (NPRM) published in the Federal Register on August 10, 1979 (44 FR 47117). These changes are as follows:

1. Treatment of Grants for Primary Care Training

Under the current regulation, a provider must deduct these grants from its incurred costs of primary care internship and residency programs to calculate its net cost of those programs. Under the amended regulation, the provider will not be required to deduct grants the donor has designated for internship and residency programs in the primary care specialties of family medicine, general internal medicine, and general pediatrics. Thus, Medicare will not reduce its payments for the costs of the programs because the provider has received grant support for them, and providers will be able to obtain the full benefit of the grants. This change will be effective for cost reporting periods beginning on or after January 1, 1978.

In the August 10, 1979, NPRM, we proposed to apply our policy change to grants for approved internship and residency programs in family practice, general practice, general internal medicine, and general pediatrics. In the amended regulation, we have deleted the "family practice" and "general practice" designations, and replaced them with "family medicine", which includes both specialties. As explained below, we made this change in order to conform the program designations used in our regulation to those in the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484). The change does not alter the number or types of programs affected by the regulation.

2. Reporting Primary Care Costs and Revenues

Under the current regulation, a provider is not required to report its primary care internship and residency program costs separately from other costs. Instead, the provider includes these costs in its report of its net cost of all intern and resident training. Also, Medicare does not now require providers to report their patient care revenues attributable to educational programs, such as payments for patient care services interns and residents furnish as part of their training.

Under the amended regulation, the provider will be required to report to its Medicare intermediary both its total costs and its total revenues applicable to each primary care program, including patient care revenues and non-Federal grants. The provider also will have to identify specifically the donors and amounts of any grants designated to support primary care training costs.

In addition, the provider will be required to compare its primary care program revenues and costs, and to compute the difference between these two amounts. If the provider reports that its revenues from primary care programs are equal to or less than its program costs, the intermediary will take no further action. However, the intermediary will notify HCFA of any surpluses of revenues over costs reported by providers that have received title VII or other primary care program grants. If the surplus is equal to or less than the amount of a provider's title VII grant, HCFA will notify the PHS, which will either recover its funds (to the extent of the surplus) or redesignate them for the succeeding year of the program. If the surplus exceeded the amount of the title VII grant, HCFA will notify the PHS and other grant donors of the surplus. If the provider did not receive a title VII grant, HCFA will notify other donors of the surplus. However, Medicare reimbursement will not change because of any surplus the provider realizes.

We have made this change because, under the amended regulation, Medicare payments might increase sufficiently to permit a provider to recover, from all sources, more than 100 percent of its primary care training costs. We do not believe this result would be consistent with the intent of title VII or of donors of non-Federal grants. Therefore, we propose to notify donors of any cases of excess recovery.

3. Calculation of Net Cost

The current regulation, at 42 CFR 405.421(a), states that "an appropriate part of the net cost of approved educational activities is an allowable cost." The phrase "appropriate part" refers to the part of a provider's net cost of educational activities that is determined, under Medicare's cost finding and cost apportionment regulations (42 CFR 405.453 and 42 CFR 405.452), to apply to the costs of services to Medicare beneficiaries. As explained in those regulations, the provider must necessarily calculate its total allowable cost of services to all patients before determining the portion of that cost that is attributable to services to Medicare patients. However, the wording of the current regulation suggests, incorrectly, that Medicare's share of total cost is to be determined before allowable cost is calculated.

To prevent misunderstanding of this point, we have amended the current regulation to remove the reference to "an appropriate part," and to specify that the net cost of an approved educational activity will be calculated by deducting tuition, and grants and donations that are specifically designated for the activity, from the provider's incurred costs for the activity. These changes merely clarify the wording of the regulation to conform to current Medicare policy, and do not change that policy.

Discussion of Major Comments

In response to the NPRM we published on August 10, 1979, we received approximately 100 comments from national and State provider organizations, hospitals, and individuals. Approximately two-thirds of the commenters expressed general approval of the intent of the proposed rule, but did not comment more specifically on it. (We did not receive any comments objecting to the proposed rule.) The remaining comments were as follows.

Effective Date

Comments: Twelve commenters objected to the proposed effective date of January 1, 1978, and suggested, for various reasons, that an earlier effective date be chosen. One commenter suggested that the amended regulation be made effective as of January 1, 1972, to correspond to the start of the first full reporting period for which PHS awarded primary care training grants.

Several commenters suggested an effective date of January 1, 1975. This date apparently was selected because on January 22, 1975, the Medicare regional office in Atlanta issued instructions to intermediaries in that region that stated, incorrectly, that title VII grants were not to be deducted in calculating the net cost of primary care internship and residency programs. Although that office later rescinded these instructions, several providers in that region incurred overpayments because these grants were not deducted. The January 1, 1975, effective date would relieve the providers of liability for these overpayments.

Several other commenters suggested that the amended regulation be effective on the same date as the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484), which authorizes title VII grants for primary care training. This law was effective on October 12, 1976. Finally, other commenters suggested that the amended regulation apply to any cost reporting

period in which a provider received grants for primary care training.

Response. We selected January 1, 1978, as the effective date of the amended regulation because in January of 1978, HEW decided to increase its support of primary care training by removing the current Medicare requirement that providers deduct primary care training grants in computing their allowable costs. The change was to be effective for reporting periods beginning on or after January 1, 1978.

Because we experienced unanticipated delays in publishing this regulation, we have decided to make it retroactive to January 1, 1978, which is the effective date HEW originally selected for the revised policy. We recognize that some providers in the Atlanta region were disadvantaged by inconsistent application of the current regulation for cost reporting periods beginning or or after January 1, 1975. However, we do not believe that, in order to give relief to these providers, we should select an effective date that would give an unintended benefit to other providers whose costs for periods before January 1, 1978, were determined properly under the current regulation. Therefore, we did not adopt any of the comments suggesting an earlier effective date for the amended regulation.

Types of Training Programs Covered

Comments. Eight commenters suggested that the scope of the proposed amendment be increased so that providers would not be required to deduct grants for training programs other than those specified in the proposed rule. For example, some commenters suggested that internships and residencies in dentistry and in obstertics and gynecology be classified as primary care programs, for purposes of the amended regulation.

Response: As explained in the August 10, 1979, NPRM, we decided to revise our policy regarding payment for costs of training programs in the primary care specialties because Congress, in the Findings and Declaration of Policy included in the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484), identified these specialties as being critical to meeting the nation's health manpower needs. Although we believe the funding authorized by Pub. L. 94-484 has helped increase the supply of primary care physicians, recent evidence indicates that some areas still do not have an adequate supply of these physicians. The Report to the President and Congress on the Status of Health Professions Personnel in the United States, which was released by the PHS on April 10, 1980, identified approximately 1200 areas, with a total population of 27.4 million, that have inadequate numbers of primary care physicians. In that report, the PHS estimated that approximately 8200 primary care physicians would be required to meet the needs of patients in these areas.

The continuing concern of the Congress with this problem is evidenced by several pending bills that would help deal with the shortage of primary care physicians. These include the Health Professions Educational Assistance and Nurse Training Amendments of 1980 (H.R. 6802), the Health Professions Education Admendments of 1980 (H.R. 6800), and the Health Professions Training and Distribution Act of 1980 (S. 2375). Each of these bills, if enacted, would provide specific funding for the training of these physicians and thus help alleviate the current shortage of primary care physicians.

To foster the development of training programs in the primary care specialties, we are creating a special exception to the general Medicare policy that requires providers to deduct grants for educational activities. However, this exception is not intended to apply to grants for other types of programs. Therefore, we have not adopted any of the comments suggesting that a similar exception be provided for grants for other training programs.

To avoid possible confusion regarding the types of training programs covered by the amended regulation, we have revised our designations of these programs. In the NPRM we published on August 10, 1979, we proposed to apply the policy change to approved internship and residency programs in family practice, general practice, general internal medicine, and general pediatrics. In the amended regulation, we have deleted the "family practice" and "general practice" designations, and replaced them with "family medicine", which includes both specialties. We made this change to conform the program designations in our regulations to those used in section 771 of the Public Health Service Act. That section defines "primary care" as family medicine, general internal medicine, and general pediatrics. These programs are more specifically described at 42 CFR 57.1602 (for family medicine) and at 42 CFR 57.3102 (for general internal medicine or general pediatrics).

Cost and Revenue Reporting

Comment: With regard to the requirement that providers report their primary care training costs and revenues to their Medicare intermediaries, four commenters suggested that the proposed rule be changed to specify the methodology providers must use to report costs and revenues, and to determine whether there is a surplus or a deficit due to primary care training.

Response: We have included in the final rule a more detailed description of the cost and revenue information the provider is required to furnish for each primary care training program, of the methodology the provider must use to calculate its costs and revenues, and of the action HCFA will take based on that information. Specifically, the rule requires the provider to calculate its direct and indirect costs of each program under the Medicare cost-finding principles in 42 CFR 405.453, and to include, in its revenues for each program, a proportionate part of the patient care revenues from each department to which program students are assigned for training. However, a full description of the methodology providers must use to measure their costs and revenues would require instructions that we believe are too detailed to be incorporated in the regulation. Therefore, we are preparing instructions to the HCFA cost reporting forms that will describe this methodology in the detail requested by the commenters.

Notice of Surplus Revenues

Comment: Five commenters objected to the statement in the NPRM that HCFA will notify the PHS or other donors, or both, of any cases in which a provider's primary care revenues exceed its costs. These commenters believe this notification would constitute unwarranted interference in the relationships between providers and donors.

Response: HCFA will not recommend that donors take any specific action with regard to any surplus that is found to exist. However, we believe donors have given their funds for the purpose of supporting programs that are not self-sustaining and they have a right to be kept informed of the financial status of programs they are supporting. We also believe that HCFA has an obligation to notify the donors of cases of surplus funding that may result, in part, from the increased level of Medicare support for primary care programs. Therefore, we have not accepted the comments recommending that HCFA not notify donors of cases of excess funding.

Components of Net Cost

Comment: Three commenters stated that by amending the current regulation

to remove the phrase "and other costs" from the definition of net cost, HCFA was changing the regulation to prohibit payment for any education costs other than for trainee stipends and compensation of teachers.

Response: This is not correct. The change referred to here was made only to explain more clearly the procedure by which net cost is calculated.

To prevent further misunderstanding of this point, we have changed the proposed regulation to state clearly that the total costs from which grants, tuition, and donations are deducted include both direct costs (e.g., trainee stipends and compensation of teachers) and indirect costs (e.g., administrative and general expenses) properly allocated to the educational activity under 42 CFR 405.453.

Calculation of Medicare Share of Costs

Comment: Two commenters requested further explanation of our reasons for removing the phrase "an appropriate part" from the regulation.

Response: As explained previously, this change was made to clarify that Medicare's share of a provider's net education cost (and of other costs a provider incurs) can be computed only after both direct and indirect costs have been allocated to revenue-producing departments, as described in 42 CFR 405.453. This amendment to the regulation does not reflect any change in the way education costs are determined and paid for under Medicare.

Comments on Related Issues

In addition to the preceding comments, we received several comments on various issues that are outside the scope of the NPRM. These comments are as follows:

Support of Nursing and Paramedical Education

Comment: In the NPRM, we stated that we have had serious disagreements with providers regarding the application of the basic principle governing reimbursement for provider education costs. We also announced our intention to review this situation and revise 42 CFR 405.421 in the near future. Two commenters requested further explanation of the disagreements we have had with providers over the implementation of this regulation. Two other commenters suggested that we change the regulation to authorize Medicare to share in the costs providers incur to subsidize nursing and paramedical education programs that are operated by other organizations.

Response: The phrase "serious disagreements" does not refer to our policy on primary care internship and residency training costs, but to a number of differences of opinion between HCFA and the Provider Reimbursement Review Board and Federal courts as to whether the current regulation authorizes Medicare to share in provider costs of supporting nonprovider nursing and paramedical education programs. Because the comments suggesting that Medicare share in these costs do not relate to the change proposed in our August 10, 1979, NPRM, we have not adopted these comments. However, we will consider these comments carefully in preparing any further revisions to 42 CFR 405.421 on this issue.

Payment for Clinic Services

Comment: One commenter suggested that Medicare increase its funding of primary care internship and residency programs by paying for a greater share of the costs of providers' ambulatory clinics. This commenter reasoned that while providers with primary care training programs are required to operate these clinics as training sites for their students, Medicare pays for only a small part of the costs of these clinics because relatively few Medicare patients receive clinic services. The commenter recommended that Medicare change its reimbursement principles so as to increase its total payment for clinic costs.

Response: Under Medicare, a provider is paid only for the part of its total costs that is attributable to the services it furnishes Medicare beneficiaries. Both the Medicare law (section 1861(v) of the Social Security Act (42 U.S.C. 1395x)) and regulations (42 CFR 405.452) prohibit Medicare payments for costs of services to non-Medicare patients. Under current cost apportionment regulations, Medicare payments for a provider's costs are directly proportional to the volume of services Medicare patients receive, relative to all patients. Because payment for a higher proportion of provider costs is prohibited by the current law and regulations, we have not adopted the comment suggesting that Medicare pay a greater share of providers' costs of ambulatory clinics.

Coverage under Part A or Part B of Medicare

Comment: One commenter stated that the proposed rule was inappropriate in that it would apply only to the costs of services covered under Part A of the program, even though primary care interns and residents furnish services that may be covered either under Part A or Part B, depending on the coverage requirements for the services.

Response: This comment is based on an apparent misunderstanding of the way Medicare pays for interns' and residents' services, and of the scope of 42 CFR 405.421. Under Medicare, the services of interns and residents in approved education programs at a provider are not classified as physicians' services, and the interns and residents are not allowed to claim Part B reasonable charge payments for those services. Instead, the services are classified as provider services, and the provider's net cost of the education program is included as an element of the overall cost of services furnished in the provider departments to which the interns and residents are assigned for training.

Section 405.421 governs Medicare payments for all provider education costs, without regard to whether those costs are allocated to departments that furnish services covered under Part A (e.g., hospital inpatient routine care) or under Part B (e.g., hospital outpatient services). Therefore, the amended regulation will apply to reasonable cost payments made under both Part A and Part B of Medicare. However, it will not apply to any Part B reasonable charge payments.

Application to Medicaid Payments

The amended regulation will apply to Medicaid payments made under State plans that require payment for education costs to be made on the same basis as Medicare. In other States, payments for education costs will continue to be made under the existing State plans.

42 CFR 405.421 is amended by revising paragraph (a), redesignating paragraph (b)(1) as paragraph (b), deleting paragraphs (d)(2) and (b)(3), and adding new paragraphs (g) and (h) to read as follows:

§ 405.421 Cost of educational activities.

(a) A provider's allowable cost may include its net cost of approved educational activities, as calculated under paragraph (g) of this section.

(b) *Definition—Approved educational activities.* Approved educational activities means formally organized or planned programs of study usually engaged in by providers in order to enhance the quality of patient care in an institution. These activities must be licensed where required by State law. Where licensing is not required, the institution must receive approval from the recognized national professional organization for the particular activity.

* * * * *

(g) *Calculating net cost.* (1) Except as specified in paragraph (g)(2) of this

section, net costs of approved educational activities are determined by deducting, from a provider's total costs of these activities, revenues it receives from tuition, and from grants and donations that the donor has designated for the activities. For this purpose, a provider's total costs include trainee stipends, compensation of teachers, and other direct and indirect costs of the activities as determined under the Medicare cost-finding principles in § 405.453.

(2) Effective for cost reporting periods beginning on or after January 1, 1978, grants and donations that the donor has designated for internship and residency programs in family medicine, general internal medicine, or general pediatrics are not deducted in calculating net costs.

(h) *Reporting of costs and revenues.* Effective for cost reporting periods beginning on or after January 1, 1978, if a provider has received a grant or donation that the donor has designated for an internship or residency program in family medicine, general internal medicine, or general pediatrics, the following requirements apply:

(1) For each program for which the provider received a grant or donation, the provider shall report to its Medicare intermediary, in the form required by HCFA, the following information:

(i) The total direct and indirect costs the provider incurred for the program, as determined under the Medicare cost-finding principles in § 405.453;

(ii) The total revenues the provider received for the program, including tuition, grants and donations designated for the program, and patient care revenues attributable to the program, as calculated under paragraph (h)(2) of this section;

(iii) The amount of the difference between program costs and program revenues; and

(iv) The name and address of the donor of each grant or donation designated for the program, and the amount given by each donor.

(2) For purposes of the report required under paragraph (h)(1) of this section, the provider shall determine the portion of patient care revenues for each department that is attributable to an internship or residency program based on the ratio of that program's costs allocated to the department under § 405.453 to total costs allocated to the department under § 405.453.

(3) The Medicare intermediary will notify HCFA of the amount of any surplus of program revenues over program costs that a provider reports under paragraph (h)(1) of this section, and of the name and address of each donor that supported the program.

(4) If a provider reports a surplus for a program under paragraph (h)(1) of this section that is equal to or less than the amount of the grant the provider received for the program from the Public Health Service, HCFA will notify the Public Health Service of the amount of the surplus. If the surplus exceeds the amount of the grant the provider received for the program from the Public Health Service, HCFA will notify the Public Health Service and other donors of the amount of the surplus. If the provider did not receive a Public Health Service grant for the program, HCFA will notify other donors of the amount of the surplus.

(Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: July 3, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: July 28, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-23870 Filed 8-4-80; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5742

[A-9590]

Arizona; Withdrawal of Forest Lands for Red Mountain Geologic Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraw 1,907.87 acres of national forest lands in the Coconino National Forest for a period of 20 years from the operation of the mining laws for protection of the Red Mountain Geologic Area.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office 602-261-4774.

By virtue of the authority contained in Section 204 of the Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, for preservation of a unique geologic area for scientific research.

Coconino National Forest

Red Mountain Geologic Area, Gila and Salt River Meridian

T. 25 N., R. 5 E.,
Sec. 20, S½N½ and S½;
Sec. 21, lots 3 to 8, inclusive, and W½SE¼;
Sec. 28, W½E½ and W½;
Sec. 29, all.

The areas described aggregate 1,907.87 acres in Coconino County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

James W. Curlin,

Acting Assistant Secretary of the Interior.

July 29, 1980.

[FR Doc. 80-23469 Filed 8-4-80; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5743

[A-9291]

Arizona; Withdrawal of Forest Lands for Elden Environmental Study Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will withdraw approximately 778 acres of national forest lands in the Coconino National Forest for a period of 20 years from the operation of the mining laws to protect the Elden Environmental Study Area.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved as an environmental study area in aid of programs of the Department of Agriculture:

Coconino National Forest

Elden Environmental Study Area, Gila and Salt River Meridian

T. 21 N., R. 7 E.,
Sec. 1, S½;
Sec. 2, lots 7 and 8, and SW¼ (less 14.25 acres in HES 86), and S½SE¼.
T. 21 N., R. 8 E.,
Sec. 6, lots 6 and 7, NE¼SW¼, NW¼SE¼,SW¼, and N½SW¼, SE¼SW¼;
Sec. 7, lot 7.

The areas described aggregate approximately 778 acres in Coconino County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

James W. Curlin,

Acting Assistant Secretary of the Interior.

July 29, 1980.

[FR Doc. 80-23472 Filed 8-4-80; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5744

[A-8684]

Arizona; Withdrawal for Forest Research Natural Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will withdraw approximately 560 acres of national forest lands in the Coronado National Forest for a period of 20 years from the operation of the mining laws for research purposes.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and are reserved for a research natural area:

Gila and Salt River Meridian

Coronado National Forest

Beginning at a point from which the Webb Peak Triangulation Station bears N. 89°32'03" E., 4,360.94 feet; thence N. 44°45' W., 1,076.09 feet; thence N. 06°47' W., 627.04 feet; thence N. 32°58' W., 325.59 feet; thence S. 89°30' W., 279.39 feet; thence S. 19°38' W., 771.86 feet; thence S. 49°27' W., 846.67 feet; thence S. 76°40' W., 2,143.79 feet; thence S. 20°59' W., 4,860.15 feet; thence S. 02°08' E., 896.89 feet; thence S. 48°46' E., 1,199.12 feet; thence N. 80°22' E., 2,506.74 feet; thence N. 14°20' E., 3,915.43 feet; thence N. 37°41' E., 2,685.98 feet to the point of beginning.

This tract, when surveyed, will probably be located within sections 25, 35, and 36, Township 8 South Range 23 East, and section 30, Township 8 South, Range 24 East.

The area described aggregates approximately 560.00 acres in Graham County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

James W. Curlin,

Acting Assistant Secretary of the Interior.

July 29, 1980.

[FR Doc. 80-23470 Filed 8-4-80; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5870]

Communities With No Special Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administration, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program without a map.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with no Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426-1460 or Toll Free Line 800-424-8872, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make a full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1-4 family dwelling is $.25 per $100 per coverage. Under the Regular Program, to which your community has been coverted, the equivalent rate is $.01 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $.05 per $100 of coverage.

In addition to the less expensive rates, the maximum available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from an licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

The entry reads as follows:

§ 65.8 List of Communities with No Special Flood Hazard Areas.

State	County	Community name	Date of conversion to regular program
Arizona	Pinal	City of Eloy	Aug. 5, 1980.
California	Los Angeles	San Gabriel	Feb. 20, 1979.
Louisiana	West Baton Rouge Parish	Town of Brusly	Aug. 5, 1980.
Pennsylvania	Westmoreland	Borough of Hunker	Aug. 5, 1980.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator).

Issued: July 22, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-23499 Filed 8-4-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii Call Toll Free (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
California	Yolo County, Unincorporated Areas FEMA-5701.	Lamb Valley Slough	Fremont Street at centerline	*187
			Winters Canal 75 feet downstream from centerline	*207
			Winters Canal 25 feet upstream from centerline	*212
		South Fork Willow Slough	County Road 88 at centerline	*148
			County Road 88B 100 feet upstream from centerline	*158
			At confluence with Lamb Valley Slough	*171
		Dry Creek	State Highway 128 100 feet downstream from centerline	*135
			State Highway 128 100 feet upstream from centerline	*142
		Shallow Flooding	At the intersection of Tutt Street and Rudolph Street	#1
			100 feet northwest of County Road 88B and South Fork Willow Slough.	#1
Maps available at Department of Public Works, 292 West Beamer, Woodland, California.				
Colorado	Summit County, Unincorporated Areas (Docket No. FEMA-5778).	Blue River	At confluence with Rock Creek	*8,450
			At confluence with Pioneer Creek	*8,466
			Upstream side of Buffalo Street Bridge	*8,639
			At confluence with Willow Creek	*8,674
		Willow Creek	At confluence with Blue River	*8,674
			Upstream side of Colorado Highway 9 over the channel	*8,698
		Straight Creek	Deer Path Road over the channel	*8,931
			Downstream side of Straight Creek Drive over the channel	*8,975
			Downstream side of Scenery Hill Trail over the channel	*9,067
		Tenmile Creek	Approximately 100 feet east of the intersection of Copper Road and Colorado Highway 91.	*9,693
		West Tenmile Creek	Upstream side of the intersection of Colorado Highway 91 and the channel.	*9,686
			Upstream side of the intersection of Copper Road and the channel	*9,700
			Downstream side of the eastern crossing of Copper Circle and the channel.	*9,761
		Snake River	At the confluence with Keystone Gulch	*9,177
			Upstream side of the western crossing of Keystone Road	*9,217
			Upstream side of the eastern crossing of Keystone Road and channel	*9,301
			Approximately 300 feet upstream of Jones Gulch channel intersection	*9,380
		Soda Creek	Crossing of Summit Drive over channel	*9,064
		Meadow Creek	At confluence with Dillon Reservoir	*9,020
			Intersection of U.S. Highway 6 and Interstate 70 channel	*9,051
Maps available at Summit County Courthouse, 208 East Lincoln, Breckenridge, Colorado.				
Connecticut	Hartland, Town, Hartford County (Docket No. FEMA-5798).	West Branch Farmington River	Corporate Limits	*502
			0.53 mile upstream of the Corporate Limits	*512
			0.98 mile upstream of the Corporate Limits	*522
			1.40 miles upstream of the Corporate Limits	*532
			1.576 miles upstream of the Corporate Limits	*538
Maps available at the office of the Selectmen, Hartland, Connecticut.				
Florida	City of Bartow, Polk County (FEMA-5798).	Peace River	Just upstream of State Road 60	*99
Maps available at City Hall, 250 North Central Avenue, Bartow, Florida 33830.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Illinois	(V) Brookfield Cook County (Docket No. FEMA-5788).	Des Plaines River	Within corporate limits	*615
		Salt Creek	At downstream corporate limits (about 880 feet downstream of Burlington Northern Railroad).	*614
			About 1.12 miles upstream of Logan Avenue	*620
	Maps available at Village Hall, 8820 Brookfield Avenue, Brookfield, Illinois 60513.			
Illinois	(V) Glencoe Cook County (Docket No. FEMA-5788).	Skokie River	Just upstream of Tower Road	*625
			Upstream corporate limits (about 300 feet upstream of Dundee Road).	*626
		Lake Michigan	Shoreline	*584
	Maps available at Village Hall, 675 Village Court, Glencoe, Illinois 60022.			
Illinois	(V) Gurnee Lake County (Docket No. FEMA-5788).	Des Plaines River	About 300 feet upstream Belvidere Road	*662
			About 1.2 miles upstream of U.S. Route 41	*665
		Gurnee Tributary	Mouth at Des Plaines River	*660
			Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	
			Just upstream of First Street	*670
			Just upstream of Greenleaf Street	*675
			Just downstream of U.S. Route 41	*682
		South Fork Gurnee Tributary	Mouth at Gurnee Tributary	*670
			About 750 feet upstream of mouth	*671
			Just downstream of Washington Street	*685
	Maps available at Village Hall, 4573 Grand Avenue, Gurnee, Illinois 60031.			
Illinois	(V) North Riverside Cook County (Docket No. FEMA-5788).	Des Plaines River	1,200 feet upstream of downstream corporate limits	*615
			At the upstream corporate limits	*616
		Addison Creek	Entire reach within corporate limits	*620
		Salt Creek	At confluence with Addison Creek	*620
			Approximately 1,200 feet downstream from 17th Avenue	*620
	Maps available at Village Clerk's Office, Village Hall, 2400 South Avenue, North Riverside, Illinois 60546.			
Illinois	(V) River Grove Cook County (Docket No. FEMA-5788).	Des Plaines River	About 9,400 feet downstream Grand Avenue	*622
			Just downstream Belmont Avenue	*624
		Golf Course Tributary	Just downstream Thatcher Road	*622
	Maps available at Village Manager's Office, Village Hall, 2621 North Thatcher, River Grove, Illinois 60171.			
Illinois	(V) Riverside Cook County (Docket No. FEMA-5788).	Des Plaines River	Just upstream Odgen Avenue	*600
			Just downstream Hoffman Dam	*604
			Just upstream Hoffman Dam	*600
			Approximately 500 feet downstream confluence of Salt Creek	*612
			Just downstream 31st Street	*615
	Maps available at the Village Manager's Officer, Village Hall, 27 Riverside Road, Riverside, Illinois 60546.			
Iowa	(C) Avoca Pottawattamie County (Docket No. FEMA-5788).	East Branch West Nishnabotna River.	Downstream corporate limits	*1,135
			About 0.51 mile upstream of State Highway 83	*1,141
		West Nishnabotna River	About 0.26 mile downstream of State Highway 83	*1,130
			About 200 feet upstream of State Highway 83	*1,133
			About 1.7 miles upstream of State Highway 83	*1,136
	Maps available at City Hall, Avoca, Iowa 51521.			
Iowa	(C) Chelsea Tama County (Docket No. FEMA-5788).	Otter Creek	At downstream corporate limit	*783
			Approximately 400 feet downstream Station Street	*784
			Upstream corporate limit	*786
		Iowa River	Approximately 1600 feet downstream Station Street	*784
			Approximately 400 feet upstream Station Street	*785
			Approximately 9290 feet upstream Station Street	*788
	Maps available at City Hall, Chelsea, Iowa, 52215.			
Louisiana	City of Bastrop, Morehouse Parish (FEMA-5798).	Staulkinghead Creek	Just upstream of Henry Avenue-East	*88
			Just downstream of Arkansas and Louisiana Missouri Railroad	*91
			Just upstream of McFee Street	*103
			Just upstream of Cleveland Street	*113
		W-10 Canal	Approximately 100 feet upstream of Louisiana Highway 830-1 (Pleasant Drive).	*91
			Just downstream of Northern Corporate Limits (Colbert Avenue Extended).	*92
		Horse Bayou	Just upstream of Cherry Ridge Road	*99
			Just upstream of Donaldson Avenue	*109
			Just upstream of Klarah Avenue	*114
	Maps available at City Hall, 202 E. Jefferson Avenue, Bastrop, Louisiana 71220.			
Louisiana	City of St. Martinville, St. Martin Parish (FEMA-5790).	Bayou Teche	Berrard Street (extended)	*15
			Just downstream of Cypress Island Coulee canal	*10
	Maps available at City Hall, 121 New Market Street, St. Martinville, Louisiana 70582.			
Louisiana	Unincorporated areas of Terrebonne Parish (FEMA-5798).	Ouiski Bayou	At confluence of Bayou Cone	*5
			Just upstream of State Highway 311	*10

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Bayou Chauvin	Just upstream of Prospect Avenue	*7
		Bayou Grand Caillou	Just upstream of Glynn Avenue	*9
		Gulf of Mexico	Northwest of Bay Cocodrie	*12
			Confluence of Bayou Petit Caillou and Robinson Canal	*11
			South of Chauvin	*9
			Just north of the confluence of Boudreaux Canal and Bayou Petit Caillou.	*9
			Vicinity of Dulac	*8
			Vicinity of Montegut at the intersection of State Highways 55 and 58	*8
			At the intersection of State Highways 55 and 655	*7
			Vicinity of Smith Ridge	*7
			Vicinity of Klondyke west of the intersection of State Highways 24 and 55.	*6
			Vicinity of Ashland	*6
			Vicinity of Crozier	*5
			Confluence of Bayou Terrebonne and Bayou Petit Caillou	*5
			Confluence of the Intracoastal Waterway and Bayou LaCarpe	*5
		Local Runoff	East of Johnson Ridge	*11
			West of Fairlane, east of levee	*6
			Vicinity of Chacahoula	*5
			Vicinity of Gibson	*4
			South of Oak Forest	*4
			Along Bayou Terrebonne northwest of Houma	*4
			Along Little Bayou Black near Hollywood	*5
			Along St. Louis Canal north and south of Broadmoor	*4
			West of Edward Daigle, east of levee	*4
			North of Oak Forest	*3
			Just south of Donner Canal at Gibson	*3
		Shallow Flooding Area (Ponding)	Just north of the City of Houma east of St. Louis Canal	*5
			Between Houma Junior High School and Southdown High School west of Houma.	*7
			West of Cypress Garden near Bayou Cane	*3
			Vicinity of Donner	*3
	Maps available at Public Works Office, 500 School Street, Houma, Louisiana 70361.			
Maine	(T) Readfield Kennebec County (Docket No. FEMA-5786).	Echo Lake	Shoreline	*318
		Lovejoy Pond	Shoreline	*305
		Maranacook Lake	Shoreline	*215
		Torsey Lake	Shoreline	*266
	Maps available at the Town Office, Readfield, Maine 04355.			
Mississippi	Town of D'Lo Simpson County (FEMA-5798).	Strong River	500 feet northeast along Puckett Road from the intersection of Brandon Westville Road and Puckett Road.	*297
		Dobbs Creek (Backwater from Strong River).	At the intersection of Pinola-Jupiter Road and the Illinois Central Gulf Railroad.	*295
	Maps available at Town Hall, D'Lo, Mississippi 39062.			
Mississippi	Town of Madison, Madison County (FEMA-5798).	Culley Creek	Just upstream of St. Augustine Street	*317
		Brashear Creek	Just downstream of Old Canton Road	*301
			Just upstream of US Highway 51	*318
			Just upstream of Illinois Central Gulf Railroad	*323
			Just downstream of Dorroh Street	*326
			Just upstream of Interstate Highway 55 Southbound Lane	*340
	Maps available at City Hall, Dorroh Street, Madison, Mississippi 39110.			
Missouri	(C) Rock Port Atchison County (Docket No. FEMA-5702).	Rock Creek	Downstream corporate limit	*925
			Approximately 600 feet downstream of Cass Street	*929
			Just upstream from Cass Street	*932
			Upstream corporate limit	*935
	Maps available at City Hall, Clay and Main Street, Rock Port, Missouri 64482.			
Missouri	(V) Tarsney Lakes, Jackson County (Docket No. FEMA-5788).	West Fork	Northern corporate limit	*810
			Approximately 120 feet downstream of Buckner Tarsney Road at west corporate limit.	*813
	Maps available at the home of the Chairman of the Board, Tarsney Lakes, Missouri 64029.			
New Jersey	East Rutherford, Borough, Bergen County (FI-5665).	Passaic River	Downstream corporate limits	*16
			Upstream corporate limits	*16
	Maps are available at the Borough Hall, East Rutherford, New Jersey.			
New Jersey	Rocky Hill, Borough, Somerset County (Docket No. FEMA-5798).	Millstone River	Downstream corporate limits	*51
			Upstream side of Rocky Hill Dam	*52
			Upstream corporate limits	*52
		Van Horn Brook	Confluence of Millstone River	*52
			Upstream side of River Road	*57
			Upstream side of Princeton Avenue	*102
			Upstream corporate limits	*110
	Maps available at the Borough Clerk's Office, West Long Branch, New Jersey.			
Oklahoma	City of Miami, Ottawa County (FEMA-5798).	Neosho River	Just upstream of The K.O.&G. Railroad	*772
			Just upstream of Highway 66	*775

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Tar Creek	Just upstream of Frisco Railroad	*772
			Just downstream of 22nd Avenue N.W	*777
		Belmont Run	Just downstream of E Street N.W	*774
			Just upstream of Main Street	*782
			Just downstream of 26th Avenue N.W	*798
		Quail Creek	Just upstream of Elm Avenue	*776
		Fairground Branch	Just downstream of 20th Avenue S.W	*789
Maps available at City Hall, 129 5th Street, N.W., Miami, Oklahoma 74354.				
Oklahoma	City of Warr Acres, Oklahoma County (FEMA-5798).	Spring Creek	Just upstream of Shore Line Drive	*1,213
			Just upstream of NW 63rd Street	*1,251
Maps available at City Hall, 5930 N.W. 49th Street, Warr Acres, Oklahoma 73122.				
Oklahoma	City of Woodward, Woodward County (FEMA-5798).	Spring Creek	Just downstream of Cheyenne Drive	*1,927
			Just upstream of Downs Avenue	*1,992
		Woodward Creek	Just upstream Crystal Beach Lake	*1,905
			Just upstream of Downs Avenue	*1,917
		Woodward Creek Tributary	Just upstream of Edgewater Drive	*1,920
Unnamed Tributary			Just upstream of Cedar Avenue	*1,938
Maps available At City Hall, 1219 8th Street, Woodward, Oklahoma 73801.				
Pennsylvania	Akron, Borough, Lancaster County (Docket No. FEMA-5788).	Cocalico Creek	Downstream Corporate Limits	*322
			Upstream Corporate Limits	*325
Maps available at the Akron Borough Office, Akron, Pennsylvania.				
Pennsylvania	Butler, Township, Luzerne County (Docket No. FEMA-5749).	Nescopeck Creek	Township Route 364 (Upstream)	*908
			U.S. Interstate Route 81 (Upstream)	*946
			Township Route 356 (Upstream)	*961
			Legislative Route 40013 (Upstream)	*1,000
			Township Route 358 (Downstream)	*1,020
			U.S. Route 309 (Upstream)	*1,023
		Little Nescopeck	U.S. Interstate Route 81 (Upstream)	*984
			Legislative Route 40013 (Upstream)	*999
			Creek Township Route 356 (Upstream)	*000
			Township Route 335 (Upstream)	*1,072
			U.S. Route 309 (Upstream)	*1,112
Maps available at the Township Building, Butler, Pennsylvania.				
Pennsylvania	Centre, Township, Berks County (Docket No. FEMA-5785).	Tributary A	Upstream side of Dauberville Dam	*298
			Upstream side of Gin Mill Road	*308
			Upstream side of Centerport Road	*323
			Approximately 100 feet downstream of Belleman's Church Road	*325
		Irish Creek	Upstream side of Dauberville Dam	*296
			Upstream side of Grove Road	*300
Maps available at the Center Township Building, Centre, Pennsylvania.				
Pennsylvania	Clay, Township, Lancaster County (Docket No. FEMA-5788).	Middle Creek	Southern crossing of Clay Road (Upstream side)	*355
			U.S. Route 322 (Upstream)	*360
			Extension of Township Route 981	*362
			Northern crossing of Clay Road	*368
			Mount Airy Road (Upstream side)	*383
			Pennsylvania Turnpike (Downstream side)	*396
		Furnace Run	Confluence with Middle Creek	*360
			Yaummerdall Road (Upstream side)	*362
Maps available at the Clay Township Building, Clay, Pennsylvania.				
Pennsylvania	Earl, Township, Lancaster County (Docket No. FEMA-5788).	Conestoga River	2,755 feet downstream of U.S. Route 322	*327
			U.S. Route 322 (Upstream Side)	*331
			3,208 feet upstream of U.S. Route 322	*334
Maps available at the Earl Township Building, Huyard Road, Earl, Pennsylvania.				
Pennsylvania	East Lampeter, Township, Lancaster County (Docket No. FEMA-5788).	Conestoga Creek	Downstream Corporate Limits	*267
			Route 30 Upstream	*274
			Pine Road Upstream	*278
			New Holland Pike Upstream	*280
			Upstream Corporate Limits	*285
		Stauffer Run	At confluence w/Conestoga Creek	*275
			Mill Cross Road Downstream	*289
			Hempstead Road Upstream	*299
			Trailer Park Access Road	*307
			Approximately 0.72 mile upstream of the Trailer Park Access Road	*316
		Mill Creek	Downstream Corporate Limits	*296
			Strasburg Pike Upstream	*303
			Gridley Road Upstream	*311
			Lincoln Highway Upstream	*314
			Witmer Road Upstream	*320

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
East Brook Road Upstream				*324
			Old Philadelphia Pike Upstream	*326
Maps available at the East Lampeter Township Building, East Lampeter, Pennsylvania.				
Pennsylvania	Eden, Township, Lancaster County (Docket No. FEMA-5785).	Big Beaver Creek	Downstream Corporate Limits	*420
			Private Road Upstream	*460
			Upstream Stony Hill Road	*501
Maps available at the Eden Township Building, Stony Hill Road, Quarryville, Pennsylvania.				
Pennsylvania	Shamokin, City, Northumberland County (Docket No. FEMA-5788).	Shamokin Creek	Downstream Corporate Limits	*711
			Walnut Street (Upstream)	*715
			Sixth Street (Downstream)	*719
			Liberty Street (Upstream)	*727
			Shamokin Street (Upstream)	*745
			Upstream Corporate Limits	*749
		Carbon Run	Confluence with Shamokin Creek	*717
			Spruce Street (Upstream)	*720
			Willow Street (Upstream)	*731
			Upstream Corporate Limits	*735
		Coal Run	Confluence with Shamokin Creek	*727
			Shakespeare Street Culvert (Downstream)	*727
			Shakespeare Street Culvert (Upstream)	*746
			Upstream Corporate Limits	*748
Maps available at the City Clerk's Office, City Hall, Shamokin, Pennsylvania.				
Pennsylvania	South Annville, Township, Lebanon County (Docket No. FEMA-5780).	Quittapahilla Creek	Downstream Corporate Limits	*394
			Upstream side of State Route 934	*401
			Downstream side of South Spruce Street	*410
			Upstream Corporate Limits	*417
		Bachman Run	Confluence with Quittapahilla Creek	*397
			Approximately 600' upstream of Private Drive	*409
			Upstream of Dam	*423
		Killinger Creek	Approximately 220' downstream of confluence of Gingrich Run	*414
			Downstream side of Brandt Road	*426
			Upstream side of Hinkle Road	*434
			Downstream side of U.S. Route 322	*445
			Approximately 1,550' upstream of U.S. Route 322	*457
			Approximately 2,950' upstream of crossing of U.S. Route 322	*464
Maps available at the Umberger Mill, South Annville, Pennsylvania.				
Pennsylvania	St. Lawrence, Borough, Berks County (Docket No. FEMA-5785).	Antietam Creek	Downstream Corporate Limits	*260
			Downstream side of Parkview Road	*281
			Downstream side of Oley Turnpike	*296
			Downstream side of St. Lawrence Avenue	*303
			Upstream Corporate Limits	*320
				*260
				*281
			Downstream side of Oley Turnpike	*296
			Downstream side of St. Lawrence Avenue	*303
			Upstream Corporate Limits	*320
Maps available at the St. Lawrence Borough Hall, St. Lawrence, Pennsylvania.				
Pennsylvania	Windsor, Township, Berks County (Docket No. FEMA-5785).	Kaercher Creek	Kaercher Creek Dam Upstream	*450
			Upstream side of Downstream Private Road	*484
			Upstream side of Upstream Private Road	*437
			Approximately 40' downstream of Old Route 22	*555
		Schuylkill River	Downstream Corporate Limits	*338
			Kernsville Dam Upstream	*390
			Upstream Corporate Limits	*393
Maps available at the Windsor Township Building, Windsor, Pennsylvania.				
Rhode Island	(T) Cumberland, Providence County (Docket No. FEMA-5788).	Blackstone River	Southeast corporate limits	*48
			Just downstream of Conrail near Sayles Dam	*50
			Just upstream of Sayles Dam	*61
			Just downstream of Mendon Road	*64
			Just downstream of Pratt Dam	*66
			Just upstream of Pratt Dam	*69
			Just downstream of Martin Street	*73
			Just downstream of Ashton Dam	*77
			Just upstream of Ashton Dam	*82
			Just downstream of School Street	*85
			Just downstream of Albion Dam	*90
			Just upstream of Albion Dam	*97
			Just downstream of Manville Road	*101
			Just upstream of Manville Dam	*115
			About 5,500 feet upstream of Manville Dam at corporate limits	*116
Maps available at Town Engineer's Office, Town Hall, Cumberland, Rhode Island 02864.				
South Carolina	City of Anderson, Anderson County (FEMA-5796).	Hartwell Reservoir Tributary	Just upstream of Valley Drive	*703
		Cox Creek	Just upstream of Calhoun Street	*682

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Just upstream of State Highway 81 (Greenville Street)	*689
		Cox Creek Tributary 2	Just downstream of Lindale Street	*727
		Rocky River	Approximately 100 feet upstream of U.S. Highway 29 By-Pass	*670
			At U.S. Highway 29	*670
		Rocky River Tributary	Just downstream of Gossett Street	*680
			Just upstream of Washington Street	*695
			Just upstream of Jefferson Street	*700
		Whitner Creek	Just upstream of Southwood Street	*698
			Approximately 100 feet upstream of West Market Street	*713
			Approximately 100 feet downstream of Bleckley Street	*733
	Maps available at City Manager's Office, City Hall, 401 South Main Street, Anderson, South Carolina 29621.			
South Carolina	Unincorporated Areas of Orangeburg County (FEMA-5798).	Edisto River	Just downstream of S.C. 74	*177
			100 feet upstream of S.C. 74	*177
		Limestone Creek	Just downstream of U.S. 178	*197
			Just upstream of Dam	*188
			Approximately 200 feet downstream of Dam	*187
		Mill Branch	Just upstream of Dam	*180
			Just upstream of U.S. 178	*213
		Gramling Creek	Just upstream of Dam	*175
			Just upstream of S.C. 33	*195
			Just downstream of State Highway 29	*204
		Gramling Creek Tributary	Just upstream of S.C. 33	*199
		Middle Pen Creek	Just upstream of S.C. 50	*152
			Just upstream of S.C. 475	*161
		Cow Castle Creek	Just upstream of S.C. 64	*159
			Just downstream of S.C. 1638	*179
			Just downstream of S.C. 793 (Woodbine Street)	*194
		Home Branch	Just downstream of S.C. 453	*82
			Just upstream of S.C. 68	*87
		Briner Branch	Just upstream of U.S. 176	*70
			Just upstream of S.C. 1256	*84
		Briner Branch Tributary	Just downstream of S.C. 103	*90
	Maps available at County Administrator's Office, 367 Green Street, Orangeburg, South Carolina 29115.			
South Dakota	Edgemont (City), Fall River County, FEMA-5798.	Cottonwood Creek	Intersection of channel and northernmost corporate limits	*3,431
			Upstream side of the intersection of Tennessee Valley Authority Road and the channel.	*3,433
Approximately 150 feet west of the intersection of H Street and				*3,444
			Dakota Avenue.	
			Intersection of the channel and the southernmost corporate limits	*3,452
	Maps available at City Hall, 601 2nd Avenue, Edgemont, South Dakota.			
Texas	City of Mount Pleasant, Titus County (FEMA-5798).	Hart Creek Tributary	Just upstream of S. Florey Avenue	*341
			Just upstream of U.S. Highway 271	*364
	Maps available at City Hall, 120 West 3rd Street, Mount Pleasant, Texas 75455.			
Vermont	Shelburne, Town, Chittenden County (Docket No. FEMA-5723).	Munroe Brook	Confluence with Shelburne Bay	*102
			Green Mountain Railroad (Downstream)	*111
			Green Mountain Railroad (Upstream)	*125
			750' downstream of Bay Road	*135
			Bay Road (Downstream)	*143
			Bay Road (Upstream)	*148
			Route 7 (Downstream)	*148
			Route 7 (Upstream)	*153
			Private Road	*155
			Longmeadow Drive (Downstream)	*157
			Longmeadow Drive (Upstream)	*162
			3,120' upstream of Longmeadow Drive	*172
		McCabes Brook	Harbor Road (Downstream)	*110
			Harbor Road (Upstream)	*111
			2,100' upstream of Harbor Road	*120
			Private Road (Downstream)	*130
			Private Road (Upstream)	*133
			1,395' upstream of Private Road	*148
		Lake Champlain	Entire Shoreline	*102
	Maps available at the Town Office, Shelburne, Vermont.			
Virginia	Albemarle County (Docket No. FEMA-5780).	North Fork Rivanna River	Confluence with Rivanna River	*352
			1.53 miles upstream of State Route 649	*362
		Mechums River	Confluence with South Fork Rivanna River	*429
			State Route 601	*434
			1.6 miles downstream of State Route 614	*456
			1.8 miles upstream of State Route 614	*467
			State Route 678	*471
			2.6 miles upstream of State Route 678	*487
			U.S. Route 250	*502
			2 miles upstream of U.S. Route 250	*515
			Interstate 64 Eastbound Lane	*529
			2.02 miles upstream of Interstate 64 Eastbound Lane	*551

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		South Fork Rivanna River	Confluence with Rivanna River	*352
			Southern Railway	*357
			Downstream side of South Fork Rivanna River Dam	*366
			Upstream side of South Fork Rivanna River Dam	*391
			State Route 680	*400
			1.65 miles upstream of State Route 680	*410
			Confluence of Mechums and Moormans Rivers	*429
		Ivy Creek	Confluence with South Fork Rivanna River	*391
			Private Road	*405
			6,000 feet upstream of Private Road	*420
			State Route 601	*433
			Dirt Road	*457
			State Route 677	*469
			Downstream side of Chessie System	*479
			Upstream side of Chessie System	*496
			State Route 637 (Downstream Crossing)	*508
			3,800 feet upstream of State Route 637 (Downstream Crossing)	*525
			State Route 637 (Upstream Crossing)	*541
			1,100 feet upstream of State Route 637 (Upstream Crossing)	*545
		Little Ivy Creek	Confluence with Ivy Creek	*475
			Downstream side of Dam at Emerson Road	*485
			Upstream side of Dam at Emerson Road	*501
			Downstream side of Chessie System	*504
			Upstream side of Chessie System	*513
			Upstream Route 250	*514
			State Route 786	*523
			1,100 feet upstream of State Route 786	*532
		Jumping Branch	Confluence with Ivy Branch	*391
			2,400 feet upstream of confluence with Ivy Branch	*423
			5,000 feet upstream of confluence with Ivy Branch	*442
			7,600 feet upstream of confluence with Ivy Branch	*455
			11,575 feet upstream of confluence with Ivy Branch	*485
		Powell Creek	Confluence with South Fork Rivanna River	*357
			Dirt Road	*365
			Private Road	*393
			Downstream side of Dam at Hollymead Drive	*406
			Upstream side of Dam at Hollymead Drive	*436
			4,525 feet upstream of Dam at Hollymead Drive	*454
		Rivanna River	State Route 729	*298
			1.6 miles upstream of State Route 729	*310
			Chessie System Upstream	*324
			.36 mile upstream of dam	*329
			U.S. Route 250 Upstream	*340
			Confluence of North Fork and South Fork Rivanna Rivers	*352
		Meadow Creek	Downstream Corporate Limits—City of Charlottesville	*347
			Downstream side of State Route 631	*353
			Upstream side of State Route 631	*359
			First Corporate Limits upstream of Downstream Corporate Limits of Charlottesville.	*377
			Second Corporate Limits upstream of Downstream Corporate Limits of Charlottesville.	*394
			Upstream Corporate Limits	*398
		Moores Creek	Confluence with Rivanna River	*325
			State Route 20 Upstream	*335
			State Route 742	*355
			Sixth Street (Abandoned Bridge)	*356
			Willoughby Boulevard	*382
			State Route 631	*386
			State Route 780	*395
			State Route 781	*405
			Private Road (Ford) 3,300 feet upstream of State Route 781	*418
			Eastbound Lane Interstate 64	*428
			Downstream side of Southern Railway	*433
			Upstream side of Southern Railway	*441
			Southbound Lane of U.S. Route 29 (Downstream Crossing	*445
			U.S. Route 29 (Middle Crossing)	*449
			First Private Road upstream of U.S. Route 29 (Middle Crossing)	*465
			Second Private Road upstream of U.S. Route 29 (Middle Crossing	*476
			Third Private Road upstream of U.S. Route 29 (Middle Crossing)	*492
			Downstream side of U.S. Route 29 (Upstream Crossing)	*511
			Upstream side of U.S. Route 29 (Upstream Crossing)	*519
			First Private Road upstream of U.S. Route 29 (Upstream Crossing)	*527
			Second Private Road upstream of U.S. Route 29 (Upstream Crossing)	*536
			State Route 745	*553
		Biscuit Run	Confluence with Moores Creek	*383
			First Private Road upstream of Interstate 64	*395
			Second Private Road upstream of Interstate 64	*411
			775 feet upstream of Second Private Road	*413
Maps available at the Albemarle County Planning Department, Charlottesville, Virginia.				
Washington	Sumner (City), Pierce County FEMA-5798.	Puyallup River	Intersection of Sunrise Place and Sunrise Lane	*53
		White River	Intersection of river and State Highway 410	*46

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Maps available at City Hall, 1104 Maple Street, Sumner, Washington				
Wisconsin	(V) Marshall, Dane County (Docket No. FEMA-5788).	Maunesha River	Southeastern corporate limit	*844
			Downstream side of Marshall Dam	*844
			Upstream side of Marshall Dam	*851
			Northwestern corporate limit	*852
		Maunesha River Unnamed Tributary.	Upstream side of State Route 19	*852
			Upstream corporate limit	*852
Maps available at the Office of Village Clerk, Municipal Building, Marshall, Wisconsin 53559.				
Wisconsin	(V) Rockdale, Dane County (Docket No. FEMA-5788.	Koshkonong Creek	At the southern corporate limit	*812
			Just downstream of Rockdale Dam	*810
			Just upstream of Rockdale Dam	*823
			At the northern corporate limit	*823
Maps available at the Office of the Village Clerk, R.R. #2, Cambridge, Wisconsin 53523.				
Wisconsin	(V) Saukville, Ozaukee County (Docket No. FEMA-5788).	Milwaukee River	Downstream corporate limits	*753
			Just upstream State Highway 33	*757
			Upstream corporate limits	*758
		Unnamed Tributary No. 1	Downstream Chicago-Milwaukee-St. Paul and Pacific Railroad	*757
			Upstream Chicago-Milwaukee-St. Paul and Pacific Railroad	*758
			Upstream Progress Drive	*762
			Upstream corporate limits	*768
Maps available at the Office of the Village Administrator/Clerk, Village Hall, 100 South Main Street, Saukville, Wisconsin 53080.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator.)

Issued: July 2, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-23500 Filed 8-4-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Brighton, Jefferson County (FEMA-5817).	Valley Creek	Just upstream of Harmer Street	*484
			Just upstream of U.S. Highway 11	*486
Maps available at City Hall, 3700 Main Street, Brighton, Alabama 35020.				
Alabama	Town of Cardiff, Jefferson County (FEMA-5817).	Fivemile Creek	Just upstream of intersection of Cardiff Road and Main Street	*370
Maps available at City Hall, Cardiff, Alabama 35041.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Hueytown, Jefferson County (FEMA-5817).	Valley Creek	Just downstream of 19th Street	*463
		Unnamed Creek 40	Just downstream of Cambridge Road	*483
	Maps available at City Hall, 1318 Hueytown Road, Hueytown, Alabama 35020.			
Alabama	City of Leeds, Jefferson County (FEMA-5799).	Little Cahaba River	Just downstream of Elliot Lane	*604
			Just downstream of Jones Street	*601
		Dry Creek	Just downstream of Eleventh Street	*635
	Maps available at City Hall, 100 Ninth Street, Leeds, Alabama 35094.			
Alabama	City of Lipscomb, Jefferson County (FEMA-5799).	Valley Creek	Just upstream of corporate limits on Unnamed Creek 43	*483
	Maps available at City Hall, 512 Avenue H, Lipscomb, Alabama 35020.			
Alabama	City of Mountain Brook, Jefferson County (FEMA-5799).	Shades Creek	Just upstream of Mountain Brook Parkway	*667
			Just upstream of Overbrook Road	*674
		Watkins Brook	Just upstream of Watkins Brook	*660
			Just upstream of Canterbury Road	*661
		Cahaba River	Approximately 300 feet south along Overton Road from the Interstate of Oakdale Drive and Overton Road.	*477
		Little Shades Creek	Just upstream of Caldwell Mill Road	*589
			Just upstream of Old Brook Trail	*594
			Just upstream of U.S. Highway 280	*597
	Maps available at City Hall, Mountain Brook, Alabama 35213			
Alabama	City of Roosevelt City, Jefferson County (FEMA-5817).	Valley Creek	Just upstream of New Wilkes Road	*498
		Unnamed Creek 45	Intersection of the Tennessee Coal and Iron Railroad and the Seaboard Coast Line Railroad.	*512
	Maps available at City Hall, 4543 Bessemer Superhighway, Roosevelt City, Alabama 35020			
Alabama	City of Tarrant City, Jefferson County (FEMA-5817).	Five Mile Creek	Just downstream of road on ABP's property	*531
			Just downstream of Springdale Drive	*538
	Maps available at City Hall, 1004 Ford Avenue, Tarrant City, Alabama 35217.			
Alabama	City of Trussville, Jefferson County (FEMA-5817).	Pinchgut Creek	Just downstream of Southern Railway	*692
			Just upstream of Chalkville Road	*695
		Cahaba River	Just upstream of U.S. HWY 11	*692
			Just upstream of Cherokee Road	*96
	Maps available at City Hall, 131 Main Street, Trussville, Alabama 37173.			
Alabama	City of Vestavia Hills, Jefferson County (FEMA-5817).	Little Shades Creek (Tributary to the Cahaba River.	Approximately 300 feet upstream of Rocky Ridge Road	*509
		Patton Creek	Approximately 200 feet downstream of Columbiana Drive	*518
			Approximately 200 feet upstream of Old Montgomery HWY	
			*530	
	Maps available at City Clerk's Office, 513 Montgomery Highway, Vestavia Hills, Alabama 35216			
Alabama	City of Warrior, Jefferson County (FEMA-5799).	Locust Fork	Just upstream of Interstate 65	*352
			Just upstream of Church Street	*359
	Maps available at City Hall, 215 Main Street, Warrior, Alabama 35180.			
Connecticut 28(T) Darien, Fairfield County, (Docket No. FEMA-5702).		Five Mile River	Just upstream of Tokeneke Road	*12*
			Approximately 100 feet downstream of Conrail	*22
			Approximately 100 feet upstream of Conrail	*29
			Approximately 600 feet downstream of Old Kings Highway North	*32
			Just downstream of Old Kings Highway North	*37
			Just upstream of Old Kings Highway North	*42
			Just upstream of Connecticut Turnpike	*46
			At northern corporate limits	*49
		Noroton River	Just upstream of Boston Post Road	*12
			Approximately 250 feet upstream of Connecticut Turnpike	*17
			Approximately 200 feet downstream of Conrail	*30
			Just upstream of Conrail	*38

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 2,200 feet upstream of Middlesex Road	*42
			Just upstream of Conrail	*74
			Just downstream of Woodway Road	*94
		Goodwives River	Just upstream of Rings End Road	*12
			Just upstream of Goodwives River Road	*13
			Approximately 1,050 feet upstream of Goodwives River Road	*15
			Approximately 1,200 feet upstream of Goodwives River Road	*19
			Just upstream of Andrews Drive	*33
			Approximately 250 feet downstream of Old Kings Highway South	*37
			Just upstream of Conrail	*44
			Just upstream Old Kings Highway North	*46
			Approximately 75 feet downstream of Prospect Avenue	*62
			Approximately 75 feet upstream of Prospect Avenue	*66
			Just upstream of Granaston Lane	*85
			Approximately 900 feet downstream of Overbrook Lane	*94
			Approximately 850 feet downstream of Overbrook Lane	*99
			Just upstream of Overbrook Lane	*109
			Just upstream of Buttonwood Lane	*135
		Stony Brook	At confluence with Goodwives River	*12
			Just upstream of Renshaw Road	*16
			Approximately 200 feet downstream of Connecticut Turnpike	*20
			Approximately 150 feet upstream of Connecticut Turnpike	*26
			Approximately 600 feet downstream of Conrail	*60
			Approximately 75 feet downstream of Conrail	*66
			Approximately 100 feet upstream of Conrail	*71
			Just downstream of West Avenue	*73
			Just upstream of West Avenue	*75
			Approximately 1,400 feet upstream of West Avenue	*78
			Approximately 900 feet downstream of Middlesex Road	*92
			Approximately 150 feet upstream of Middlesex Road	*95
			Just downstream of High School Lane	*98
			Just downstream of Hanson Road	*111
		Tokeneke Brook	Just upstream of Cross Road	*12
			Approximately 150 feet downstream of Dam	*13
			Just upstream of Dam	*25
			Just upstream of Tokeneke Road	*27
			Approximately 125 feet upstream of Conrail (first of three crossings)	*32
			Just downstream of Conrail (second of three crossings)	*34
			Just upstream of Conrail (second of three crossings)	*43
			Just downstream of Conrail (third of three crossings)	*44
			Just upstream of Conrail (third of three crossings)	*51
		Long Island Sound	Darien Coastline	*12
	Maps available at Town Office, Public Works Office, Darien, Connecticut 06820.			
Connecticut	(†)Mansfield, Tolland County (Docket No. FEMA-5702).	Willimantic River	Southern corporate limit	*250
			At Cider Mill Road	*251
			500 feet upstream from Route 31	*255
			1,000 feet downstream from Central Vermont Railway	*260
			At Coventry Road	*268
			2,000 feet upstream from Central Vermont Railway (northern crossing).	*269
			Just downstream from Eagleville Road	*275
			Just upstream from Eagleville Dam	*284
			Just downstream from Plains Road	*287
			Just upstream from Plains Road	*291
			Just downstream from Route 44A	*293
			Just upstream from Route 44A	*296
			About 150 feet upstream of Merrow Road	*315
			Approximately 1,400 feet upstream from Merrow Road	*317
			Just upstream from Tolland Road	*325
			At northern corporate limits	*330
		Conantville Brook	At Route 195	*163
			At west bound Interstate 84	*166
			At Conantville Road	*167
			Just upstream from Conantville Dam	*196
			At Ash Street	*236
			At Upstream dam	*240
			At Pleasant Valley Road	*258
		Natchaug River	1,300 feet upstream from corporate limit	*163
			Just downstream from Willimantic Dam	*168
			Just upstream from Willimantic Dam	*184
			Just downstream of Hollow Dam Road	*195
		Mount Hope River	About 2,100 feet upstream of Atwoodville Road	*260
			2,500 feet upstream from Atwoodville Road	*263
			About 200 feet upstream from Juniper Lane	*287
			Approximately 2,000 feet downstream from Laurel Lane	*297
			Just upstream from Laurel Lane	*304
			Just upstream of Mount Hope Road	*310
			2,300 feet upstream from Mount Hope Road	*333
			At the upstream corporate limit	*340
	Maps available at Town Clerks Office, Town Hall, Mansfield, Connecticut 06286.			
Delaware	Frederica, Town, Kent County (Docket No. FEMA-5800).	Delaware Bay (Tidal Flooding)	West bank of the Murderkill River from Market Street to the confluence of Spring Creek.	*9
			South bank of Spring Creek from its confluence with the Murderkill River to Tributary No. 1 to Spring Creek.	*9

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Tributary No. 1 to Spring Creek from its headwaters to its confluence with Spring Creek	*9
	Maps available at the Town Hall, Market Street, Fredenca, Delaware.			
Illinois	(C) Carmi, White County (Docket No. FEMA-5815).	Little Wabash River	Just upstream Highway 460	*378
			Just upstream Conrail	*379
	Maps available at City Hall, Main Street, Carmi, Illinois 62821			
Illinois	(V) Lake Barrington, Lake County (Docket No FEMA-5702)	Fox River	At downstream corporate limit	*737
			At upstream corporate limit	*737
		Flint Creek	At confluence with Fox River	*737
			About 0.1 mile downstream of private footbridge	*737
			Just upstream of private footbridge (about 0.37 mile downstream from Kelsey Road bridge)	*741
			Just upstream of Kelsey Road	*747
			Just upstream of Flint Lake Dam	*752
			At confluence of North Arm of Flint Creek	*752
			About 0.4 mile upstream of confluence of North Arm Flint Creek (just downstream of footbridge)	*758
			Just upstream of footbridge	*763
			Just upstream of Illinois Route 22	*764
			Just downstream of U.S. Highway 14	*765
		North Arm of Flint Creek	At confluence with Flint Creek	*752
			Just upstream of Barrington Road	*755
			At upstream corporate limit	*756
	Maps available at the Village President's Office, Village Hall, 49 Woodland Drive, Lake Barrington, Illinois 60010.			
Illinois	(V) Melrose Park, Cook County (Docket No. FEMA-5800)	Des Plaines River	South corporate limits	*621
			Just downstream of Soo Line Railroad	*621
		Silver Creek	At mouth of Des Plaines River	*621
			Approximately 300 feet upstream of 9th Avenue	*623
			Approximately 300 feet downstream of 15th Avenue	*627
			Just upstream of North Avenue	*630
			Just downstream Armitage Avenue	*635
		Addison Creek	At Bellwood corporate limits	*633
			Approximately 600 feet downstream of Lake Street	*634
			Upstream corporate limits	*638
	Maps available at Village Hall, 706 North 18th Avenue, Melrose Park, Illinois 60160.			
Illinois	(V) Oak Lawn, Cook County (Docket No. FEMA-5800).	Stony Creek (West)	Just upstream Ridgeland Avenue	*594
			About 5800 feet upstream Central Avenue	*595
		Oak Lawn Ditch	Downstream corporate limits	*596
			Just downstream of Edison Avenue	*598
		Melvina Ditch	At downstream corporate limits	*597
			About 1800 feet upstream of corporate limits	*600
	Maps available at Assistant Village Manager's Office, City Hall, 5252 Dunke Street, Oak Lawn, Illinois 60453.			
Illinois	(V) Western Springs, Cook County (Docket No. FEMA-5799).	Flagg Creek	Southern corporate limits	*640
			Just upstream of 53rd Street	*642
			Upstream corporate limits, just downstream Interstate Highway 294	*643
	Maps available at Village Hall, 740 Hillgrove Avenue, Western Springs, Illinois 60558.			
Indiana	(T) Battle Ground, Tippecanoe County (Docket No. FEMA-5800).	Burnett Creek	At downstream corporate limits	*555
			Just downstream Prophets Rock Road	*562
			Just downstream State Route 225	*571
			At upstream corporate limits	*576
	Maps available at Town Hall, Battle Ground, Indiana 47920.			
Indiana	(Uninc.), Floyd County (Docket No. FEMA-5800)	Little Indian Creek	About 0.45 mile upstream of confluence with Indiana Creek	*678
			Just upstream Pectol Road	*695
			Just downstream of confluence of Yellow Fork Buck Creek	*703
			About 660 feet upstream Belender Road	*714
			About 500 feet downstream Luther Road	*735
			Just upstream U.S. Route 150	*751
			Just upstream from St. Marys Road (near Spickart Knob Road)	*791
			About 800 feet upstream Akins Road	*848
		Jersey Park Creek	About 700 feet downstream U.S. Route 150	*690
			About 0.3 mile upstream from Greenville-Borden Road	*724
		Indian Creek	At confluence of Little Indian Creek	*678
			Approximately 0.27 mile upstream Featherngill Road	*686
			Approximately 0.6 mile upstream U.S. Route 150	*696
		Yellow Fork	About 625 feet downstream Old Vincennes Road	*704
		Buck Creek	About 500 feet upstream Old Vincennes Road	*707
			About 0.55 mile upstream Old Vincennes Road	*720
		Georgetown Creek	About 1320 feet downstream Main Street	*680
			Just upstream Georgetown-Lanesville Road	*695
			Just upstream Wiks Road	*709
			About 1500 feet upstream Baylor-Wiseman Road	*736
		Lewis Branch	Approximately 640 feet upstream confluence with Jacobs Creek	*456

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 0.59 mile upstream confluence with Jacobs Creek	*467
		Bald Knob Creek	Approximately 0.18 mile upstream confluence with Jacobs Creek	*448
			Just upstream U.S. Route 31W	*462
			Just upstream Kamer-Miller Road	*471
			Approximately 0.6 mile upstream Kamer-Miller Road	*491
		Jacobs Creek	About 0.27 mile downstream U.S. Route 31W	*448
			About 700 feet upstream U.S. Route 31W	*455
			About 0.75 mile upstream U.S. Route 31W	*473
		Silver Creek	About 0.3 mile downstream of Blackiston Mill Dam	*448
			About 0.3 mile downstream of Interstate 265	*449
			About 0.5 mile upstream of Interstate 265	*454
		Ohio River	Downstream county boundary	*446
			Downstream corporate limit of New Albany	*447
	Maps available at County Planning Office, County-City Building, New Albany, Indiana 47150.			
Indiana	(C) West Lafayette, Tippecanoe County (Docket No. FEMA 5800).	Wabash River	Approximately 2000 feet downstream State Street bridge	*529
			Approximately 0.8 mile upstream Harrison Street bridge	*532
	Maps available at City Hall, West Lafayette, Indiana 47906.			
Iowa	(C) Ames, Story County (Docket No. FEMA 5799).	Unnamed Creek A	Approximately 650 feet west of East Corporate Limit	*874
			Approximately 150 feet south of Jewel Drive	*889
			Just upstream of Jewel Drive	*894
			Just upstream of U.S. Highway 69	*899
		Unnamed Creek B	Confluence with Unnamed Creek A	*885
			Just downstream of Garden Drive	*892
			Just downstream of Emerald Drive	*896
			About 300 feet upstream of U.S. Highway 69	*906
		Worle Creek	Confluence with Squaw Creek	*890
			About 100 feet downstream of South Riverside Drive	*891
			Just downstream of Elwood Drive	*904
			Approximately 2100 feet upstream of Elwood Drive	*912
			About 1600 feet upstream U.S. Highway 30	*923
			Western corporate limits (west of abandoned railroad)	*930
		Skunk River	About 2.1 miles downstream of South Sixteenth Street	*873
			Just upstream South Sixteenth Street	*883
			Approximately 1100 feet downstream of Lincoln Way	*884
			Approximately 600 feet upstream of Chicago and North Western Railroad.	*888
			Approximately 2,000 feet upstream of East 13th Street	*892
			About 1,400 feet downstream from Riverside Road	*903
		Squaw Creek	About 1,000 feet downstream of Duff Avenue	*883
			Just downstream of Duff Avenue	*886
			Just upstream of Chicago and North Western Railroad (near Worle Creek).	*890
			Just upstream Thirteenth Street	*900
			About 150 feet upstream of confluence with Onion Creek	*908
		Onion Creek	Approximately 1,060 feet upstream of confluence with Squaw Creek	*908
			At upstream corporate limit	*923
		College Creek	Mouth at Squaw Creek	*898
			Approximately 400 feet upstream of Wallace Road	*902
			Approximately 600 feet upstream of Wallace Road	*916
			Approximately 800 feet upstream of Knoll Road	*917
			Just upstream of Hayward Avenue	*933
			About 150 feet upstream of Sheldon Avenue	*947
			About 150 feet downstream of State Avenue	*948
			Just upstream of State Avenue	*951
			Approximately 3,800 feet upstream of State Avenue	*970
			Corporate limit about 2,200 feet downstream of South Dakota Avenue	*980
			Just downstream of South Dakota Avenue	*992
			Approximately 1,300 feet downstream from west corporate limit	*1,005
			West corporate limit	*1,012
		Clear Creek	Confluence with Squaw Creek	*904
			Just downstream of 13th Street	*904
			Approximately 325 feet upstream of Chicago and North Western Railroad.	*916
			Just upstream of North Dakota Avenue	*958
			About 0.8 mile upstream of North Dakota Avenue	*970
			Western corporate limit	*975
	Maps available at City Hall, Ames, Iowa 50010.			
Iowa	(C) Cherokee, Cherokee County (Docket No. FEMA 5799).	Little Sioux River	At southern corporate limits	*1,176
			Just upstream of Main Street	*1,181
			About 1,500 feet upstream of State Highway 3	*1,183
		Railroad Creek	Mouth at Little Sioux River	*1,179
			About 100 feet upstream of Main Street	*1,179
			Just upstream of Cedar Street	*1,187
			Just upstream of Bluff Street	*1,196
			At northern corporate limits	*1,226
	Maps available at City Hall, 211 West Maple Street, Cherokee, Iowa 51012.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Iowa	(C) Forest City, Winnebago County (Docket No. FEMA-5800).	Winnebago River	Downstream extraterritorial limit	*1,199
			Just upstream County Road at south corporate limits	*1,204
			Just upstream J Street	*1,208
			Just upstream Chicago and North Western Railroad	*1209
			Upstream corporate limits	*1,211
			Upstream extraterritorial limits	*1,213
		Bear Creek	Just upstream County Line Road	*1,205
			Just upstream of County Road	*1,208
			About 0.28 mile upstream of County Road	*1,209
	Maps available at City Hall, Forest City, Iowa 50436			
Iowa	(C) La Porte City, Black Hawk County, (Docket No. FEMA 5702).	Wolf Creek	At downstream corporate limit	*815
			Just downstream of Waterloo railroad	*819
			Just upstream of Abandoned Chicago, Rock Island, and Pacific railroad.	*823
			Just upstream of U.S. Route 218	*824
			3,000 feet upstream of U.S. Highway 218	*826
			At upstream corporate limit	*826
		Shallow flooding from Wolf Creek bypass flow.	At Eighth Street and eastern corporate limit	*816
			About 150 feet northeast of abandoned railroad	*820
			About 350 feet southwest of Main Street	*821
			Just east of Commercial Street	*823
	Maps available at City Hall, La Porte City, Iowa 50651.			
Iowa	(C) Leland, Winnebago County (Docket No. FI 5702).	Winnebago River	At the southern corporate limits	*1,215
			Just downstream of County Highway A-38	*1,218
		Drainage Ditch No. 11	Just upstream of Chicago and North Western Railroad	*1,216
			At upstream corporate limits	*1,217
	Maps available at City Hall, Leland, Iowa 50453.			
Maine	(C) Westbrook, Cumberland County (Docket No. FEMA 5800).	Presumpscot River	At northern corporate limits	*35
			Approximately 1,200 feet downstream of Cumberland Street	37
			Just upstream of Cumberland Street	*46
			Approximately 200 feet upstream of Bridge Street	*51
			Approximately 1,300 feet upstream of Bridge Street	*74
			At western corporate limit	*77
		Minnow Brook	Approximately 2,600 feet upstream of mouth	*35
			Approximately 1,200 feet downstream of Brook Road	*83
			Approximately 170 feet downstream of Brook Road	*98
			Approximately 60 feet upstream of Brook Raod	*116
			Approximately 2,000 feet upstream of Brook Road	*163
			Approximately 3,300 feet upstream of Brook Road	*194
			Approximately 4,200 feet upstream of Brook Road	*216
			Approximately 5,000 feet upstream of Brook Raod	*235
			Approximately 6,100 feet upstream of Brook Road	*268
			Approximately 7,050 feet upstream of Brook Road	*280
		Mill Brook	Mouth at Presumpscot River	*35
			Just downstream of Austin Street	*35
		Stroudwater River	At eastern corporate limit	*31
			Approximately 800 feet downstream of Spring Street	*32
			Just downstream of Spring Street	*39
			Just upstream of Spring Street	*47
			Approximately 1,400 feet upstream of Spring Street	*48
			Approximately 2,500 feet downstream of Saco Street	*57
			Approximately 1,700 feet downstream of Saco Street	*60
			Just downstream of Saco Street	*62
			Just upstream of Saco Street	*66
			At western corporate limit	*68
		Clark Brook	Approximately 900 feet upstream of confluence with Stroudwater River.	*48
			Approximately 1,000 feet upstream of confluence with Stroudwater River.	*54
			Approximately 2,600 feet upstream of confluence with Stroudwater River.	*55
			Approximately 4,000 feet upstream of confluence with Stroudwater River.	*61
			Approximately 5,500 feet upstream of confluence with Stroudwater River.	*70
			Approximately 6,200 feet upstream of confluence with Stroudwater River.	*82
			Approximately 7,100 feet upstream of confluence with Stroudwater River.	*94
		Tributary to Clark Brook	At confluence with Clark Brook	*55
			Approximately 900 feet upstream of confluence with Clark Brook	*58
			Approximately 2800 feet upstream of confluence with Clark Brook	*70
			Approximately 3500 feet upstream of confluence with Clark Brook	*77
	Maps available at the City Engineer's Office, City Hall, 790 Main Street, Westbrook, Maine 04092.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Twp.) Argentine Genesee County (Docket No. FEMA 5799).	Shiawassee River	At Downstream corporate limits	*831
			Just upstream of Meire Road	*833
			Just upstream Duffield Road	*839
			Just upstream Bird Road	*843
			Just upstream Cole Road	*846
			At upstream corporate limits	*851
	Maps available at Argentine Township Hall, 9048 Silver Lake Road, Linden, Michigan 48451.			
Michigan	(C) Flint Genesee County (Docket No. FI 5552).	Flint River	Downstream corporate limit	*702
			About 1,000 feet upstream from Stephenson Street	*706
			Just downstream of Hamilton Dam	*708
			About 300 feet upstream of Stevens Street	*710
			Just above Utah Dam	*716
			Upstream corporate limit	*719
		Swartz Creek	Mouth at Flint River	*706
			Just upstream of Second Street	*708
			Just upstream of Court Street	*710
			Just upstream of Lower Circle Road	*718
			Just upstream of Circle Road	*725
			Just downstream of Ballenger Road	*737
			Just upstream of Bristol Road	*753
			Just upstream of private road located 1,100 feet upstream of Bristol Road.	*756
			At upstream corporate limits	*769
		Gilkey Creek	Mouth at Flint River	*713
			Just upstream of Interstate 475	*717
			Just downstream of Kearsley Park Boulevard	*717
			Just upstream of Longway Boulevard	*727
			About 1,150 feet upstream of Longway Boulevard	*729
			About 1,800 feet upstream of Longway Boulevard	*735
			Just upstream of Vernon Drive	*744
			Just upstream of Kelso Street	*750
			Just upstream of Chessie System	*752
			Upstream corporate limits	*754
		Kearsley Creek	Mouth at Flint River	*717
			Just downstream of Kearsley Reservoir Dam	*718
			Just above Kearsley Reservoir Dam	*736
			Upstream corporate limits	*737
		Thread Creek	Mouth at Swartz Creek	*711
			Just upstream of Fenton Street	*715
			About 600 feet upstream of Chessie System	*723
			Just downstream of Twelfth Street	*726
			Just upstream of Grand Traverse Street	*732
			Just upstream of Barton Street	*743
			Just downstream of Thread Lake Dam	*747
			Just above Thread Lake Dam	*751
			Just upstream of Dort Highway	*758
			Just upstream of Chambers Road	*760
			Upstream corporate limit	*761
		Crampton Drain	Confluence with Kearsley Reservoir	*736
			Upstream corporate limits	*739
		Robinson Drain	Mouth at Gilkey Creek	*740
			Just upstream of Golf Course Bridge	*745
			Approximately 2,700 feet upstream of Golf Course Bridge	*750
		West Branch, Swartz Creek	Downstream corporate limits	*752
			Upstream corporate limits	*753
		Carman Creek	Confluence with Swartz Creek	*726
			Just downstream of State Highway 21	*730
			Just upstream of Grand Trunk Western Railroad	*736
			Just downstream of Crestbrook Lane	*742
			Just upstream of Crestbrook Lane	*747
			Just upstream of Hammerberg Road	*751
			Upstream corporate limits	*753
	Maps available at City Hall, Department of Community Development, 1101 South Saginaw Street, Flint, Michigan 48502.			
Michigan	(C) Grand Ledge, Eaton County (Docket No. FEMA 5800).	Grand River	Just upstream Grand Ledge Dam	*797
			About 7,000 feet upstream of South Bridge Street	*801
	Maps available at City Hall, 200 East Jefferson Street, Grand Ledge, Michigan 48837.			
Michigan	(Twp.) Plainfield, Kent County (Docket No. FEMA 5800).	Grand River	Southwest corporate limits	*619
			Just upstream of State Highway 44	*623
			Southeast corporate limits	*626
	Maps available at Township Hall, Building and Planning Department, 6156 Belmont Avenue, Belmont, Michigan 49306.			
Michigan	(Twp.) Vienna, Genesee County (Docket No. FEMA 5799).	Pine Run	About 200 feet upstream from Interstate 75	*674
			At the western corporate limit of Clio	*697
			At the eastern corporate limit of Clio	*702
			Just downstream of Saginaw Road	*710
		Mason Drain	About 150 feet downstream of Chessie System	*704
			Just upstream of Bingham Road	*715
			Just upstream from Dodge Road	*722
			Just downstream of Frances Road	*736

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available at Vienna Township Hall, 3370 West Vienna, Clio, Michigan 48420.				
Michigan	Chtr. (Twp.) Windsor, Eaton County (Docket No. FEMA 5800).	Grand River	Northern corporate limit	*840
			Just upstream of eastbound Interstate 96	*842
			At confluence of Old Man Drain	*845
		Old Maid Drain	Downstream corporate limit	*845
			Just downstream of Canal Road	*852
			Just upstream of Canal Road	*856
			Just upstream of Seney Road	*858
			1,400 feet upstream of Seney Road	*859
		Gilbert Drain	Mouth at Grand River	*847
			Just upstream of Jarvis Highway	*852
			Just upstream of Farm Lane located 2,260 feet upstream of Jarvis Highway.	*859
			200 feet upstream of Waverly Road	*864
Maps available at Windsor Township Library, Dimondale, Michigan 48821.				
Minnesota	(Uninc.), Benton County (Docket No. FEMA-5799).	Mississippi River	Upstream corporate limit of Sauk Rapids	*1,000
			Downstream corporate limit of Sartell	*1,002
			Upstream corporate limit of Sartell	*1,020
			Downstream corporate limit of Rice	*1,027
			Upstream corporate limit of Rice	*1,029
			About 0.4 mile upstream of confluence of Platte River	*1,031
		Platte River	Mouth at Mississippi River	*1,031
			Just downstream County Road 40	*1,042
			About 500 feet upstream U.S. Highway 10	*1,074
		Little Rock Lake	Shoreline	*1,022
Maps available at Benton County Courthouse, Foley, Minnesota 56329.				
Minnesota	(C) Cannon Falls, Goodhue County (Docket No. FEMA 5799).	Cannon River	About 1.84 miles downstream of Third Street opposite the eastern most corporate limits.	*780
			Just upstream of Third Street	*791
			At the upstream corporate limit	*801
		Little Cannon River	Mouth at Little Cannon River	*793
			Just downstream of dam	*795
			Just upstream of dam	*816
			At the upstream corporate limit	*821
Maps available at City Hall, 306 West Mill Street, Cannon Falls, Minnesota 55009.				
Minnesota	(Uninc.) Cottonwood County (Docket No. FEMA 5800).	W. Fork Des Moines River	Southern County Boundary	*1,374
			About 0.1 mile upstream City of Windom Corporate Limit	*1,349
			Approximately 2.8 miles downstream of County Highway 15	*1,354
			Just downstream County Highway 15	*1,358
			Just upstream County Highway 15	*1,361
			Approximately 1.6 miles upstream County Highway 15	*1,362
Maps available at the Office of Zoning Administrator, Cottonwood County Courthouse, Windom, Minnesota 56101.				
Minnesota	(Uninc.) Jackson County (Docket No. FEMA 5800).	West Fork Des Moines River	Approximately 0.65 mile downstream of County Road 4	*1,289
			Just downstream of County Road 4	*1,291
			Approximately 0.13 mile upstream of County Road 4	*1,292
			Approximately 0.5 mile downstream of Kanabe Bridge	*1,295
			Approximately 1.64 miles upstream of Kanabe Bridge	*1,300
			Just downstream of City of Jackson south corporate limits	*1,306
			Just upstream of City of Jackson north corporate limits	*1,314
			Just upstream of U.S. Highway 90	*1,316
			Approximately 1.6 mile upstream of U.S. Highway 90	*1,320
			Approximately 3.0 mile upstream of U.S. Highway 90	*1,323
			Approximately 4.0 miles downstream of County Boundary	*1,345
			County Boundary	*1,347
Maps available at Jackson County Courthouse, P.O. Box 64, Jackson, Minnesota 56143.				
Minnesota	(C) New Hope, Hennepin County (Docket No. FEMA 5800).	North Branch Bassett Creek	Entire reach within city	*889
		Bass Creek	Entire reach within city	*883
Maps available at Office of City Clerk, 440 Xylon Avenue, New Hope, Minnesota 55428.				
Mississippi	Pelahatchie (Town), Rankin County FEMA-5800.	Pelahatchie Creek	100 feet upstream from center of Illinois Central Gulf Railroad	*351
		Pelahatchie Tributary No. 1	100 feet upstream from center of State Highway 43	*352
			100 feet upstream from center of College Street	*359
		Pierce Creek	At confluence with Pelahatchie Creek	*353
			100 feet downstream from center of Lockwood Street	*365
Maps available at City Hall, P.O. Box 229, Pelahatchie, Mississippi.				
Missouri	(C) Ballwin, St. Louis County (Docket No. FEMA 5800).	Fishpot Creek	Downstream corporate limits	*535
			About 250 feet upstream of Ries Road	*556
			About 250 feet upstream of Ramsey Lane	*578
			About 75 feet downstream of Manchester Road	*588
			About 270 feet upstream Manchester Road	*594
			Just downstream Smith Drive	*604
		Grand Glaize Creek	Downstream corporate limits	*534
			Approximately 1,150 feet downstream Holloway Road	*548
s available at City Hall, 300 City Hall Drive, Ballwin, Missouri 63011.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(C) Black Jack, St. Louis County (Docket No. FEMA 5800).	Coldwater Creek	Approximately 2,100 feet downstream of Old Jamestown Road	*478
			Approximately 200 feet downstream of Old Halls Ferry Road	*490
	Maps available at the Director of Public Works Office, City Hall, 4655 Parker Road, Black Jack, Missouri 63033.			
Montana	Billings (City), Yellowstone (County) FEMA 5799.	Yellowstone River	Intersection of river and center of Interstate 90	*3,100
		Alkali Creek	200 feet upstream from center of U.S. Highway 87 and 312	*3,159
			North edge of the bend in Indian Trail at approximately 250 feet north of its intersection with Wigwam Trail.	*3,178
	Maps available at Public Works Department, City Hall, 220 North 27th, Billings, Montana.			
Nebraska	(V) Dodge, Dodge County (Docket No. FEMA 5800).	Middle Pebble Creek	Approximately 200 feet downstream of County Road 6	*1,379
			Just downstream of County Road 6	*1,380
			Approximately 500 feet upstream of County Road 6	*1,383
			Approximately 1,700 feet upstream of County Road 6	*1,384
			Approximately 4,080 feet upstream of County Road 6	*1,390
			Approximately 420 feet downstream of downstream corporate limits of village of Dodge.	*1,393
			Approximately 120 feet downstream of Highway Spur 27A	*1,399
			Just upstream of Highway Spur 27A	*1,401
			Approximately 2,960 feet upstream of Highway Spur 27A	*1,405
			Approximately 5,160 feet upstream of Highway Spur 27A	*1,415
	Maps available with Ms. Louanne Kampschneider, Village Clerk, Village Clerk's Office, Dodge, Nebraska 68633.			
New Jersey	Lopatcong, Township, Warren County (Docket No. FEMA 5800).	Delaware River	Dowsnstream Corporate Limits	*198
			Upstream Corporate Limits	*201
		Lopatcong Creek	Downstream Corporate Limits	*217
			Corporate Limits at Lock Street	*227
			Corporate Limits at 10,520 feet above mouth and 1,720 above Lock Street.	*234
			Upstream side of upstream crossing of Lock Street, 11,560 feet above mouth.	*241
			Upstream side of U.S. Route 22	*250
			Upstream side of County Route 519	*268
			19,840 feet upstream of mouth	*277
			Upstream of Conrail Culvert	*285
			23,320 feet above mouth and 2,920 feet above Conrail Culvert	*294
			4,590 feet above Conrail Culvert	*305
			Upstream side of private road, 5,220 feet above Conrail Culvert	*315
			2,030 feet downstream of Belview Road	*326
			580 feet downstream of Belview Road	*336
			Corporate Limits, 660 feet upstream of Belview Road	*344
	Maps available at the Clerk's Office, Lopatcong, New Jersey.			
Ohio	(Unic.), Ashtabula County (Docket No. FEMA 5799).	Grand River	Just downstream of Windsor-Mechanicsville Road	*761
			At confluence of Coffee Creek	*767
			About 600 feet downstream of Sweitzer Road	*775
			About 1100 feet downstream of U.S. Route 322	*785
			Just downstream of U.S. Route 322	*789
			Just upstream of U.S. Route 322	*792
			Just downstream of Old Plank Road	*801
			About 1.3 miles upstream of Old Plank Road (at the county boundary)	*804
		Phelps Creek	At downstream county boundary	*804
			About 950 feet downstream of South Windsor Road	*804
			Just upstream of South Windsor Road	*807
			About 2200 feet upstream of South Windsor Road	*809
			Just downstream of Noble Road	*811
	Maps available at Ashtabula County Court House, 25 West Jefferson Street, Jefferson, Ohio 44047.			
Ohio	(C) Bedford, Cuyahoga County, (Docket No. FEMA 5799).	Tinkers Creek	50 feet downstream of Union Street	*878
			100 feet upstream of Union Street	*883
			Just upstream of Broadway	*886
			120 feet upstream of Northfield Road	*891
			Just upstream of southbound Interstate 271	*903
			1140 feet upstream of northbound Interstate 271	*907
		Wood Creek	Downstream side of Norfolk and Western railway	*880
			Just upstream of Norfolk and Western railway	*885
			60 feet upstream of Broadway	*892
			Just downstream of Stone-Bowers Buick Inc. Parking lot	*895
			100 feet upstream of Stone-Bowers Buick Inc. parking lot	*903
			Just downstream of Rockside Road	*908
			Just upstream of Rockside Road	*913
			Just downstream of Greencroft Road	*915
			Just upstream of Greencroft Road	*922
			Just downstream of Thames Avenue	*923
			Just upstream of Thames Avenue	*927
			Northern corporate limits	*932
		Bear Creek	130 feet downstream of Columbus Street	*980
			Just upstream of Columbus Street	*983
			770 feet upstream of Columbus Street	*989
			1600 feet downstream of Rockside Road	*1,000

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Rockside Road	*1,003
			Northern corporate limits	*1,013
Maps available at City Hall, 65 Columbus Road, Bedford, Ohio 44146				
Ohio	(C) Brunswick, Medina County (Docket No. FEMA 5799)	Plum Creek	Downstream corporate limits (south of Thorpe Street)	*1,074
			Just upstream of Laurel Road	*1,079
			Corporate limits (about 2,200 feet upstream of Laurel Road)	*1,083
			Just upstream of Center Road	*1,093
			Just upstream of Fireside Drive	*1,103
			Just downstream of Carpenter Road North	*1,111
		Healey Creek	Just upstream of West 130th Street	*1,066
			Just upstream of Bethe Lane	*1,078
			Corporate limits (about 2,100 feet upstream of Bethe Lane)	*1,092
			Corporate limits (near intersection of Magnolia Drive and Claremont Drive)	*1,102
			Just downstream of Starview Drive	*1,121
		Tributary P-3	Mouth at Plum Creek	*1,079
			Just downstream of Berwick Drive	*1,104
		Tributary P-8	Just upstream of Center Road	*1,109
			About 1,800 feet upstream of Center Road	*1,116
Maps available at City Hall, 4095 Center Road, Brunswick, Ohio 44212				
Ohio	(Uninc.) Lake County (Docket No. FEMA 5799).	Grand River	Mouth at Lake Erie	*576
			Village of Grand River corporate limits, approximately 4,020 feet upstream of mouth at Lake Erie.	*576
			City of Painesville corporate limits near Fairport Road	*580
			City of Painesville corporate limits, approximately 1,600 feet upstream of North St. Clair Street.	*583
			City of Painesville corporate limits, approximately 1,560 feet upstream of Erie Street.	*598
			City of Painesville corporate limits, approximately 4,100 feet downstream of Walnut Avenue.	*610
			City of Painesville corporate limits, approximately 1,300 feet downstream of Walnut Avenue	*611
			City of Painesville corporate limits, approximately 1,800 feet upstream of Walnut Avenue.	*616
			About 5,360 feet upstream of Walnut Avenue	*619
		Big Creek	Mouth at Grand River	*619
			Just downstream of State Route 86	*624
			Just upstream of private drive, approximately 7,500 feet downstream of Interstate 90.	*652
			Approximately 4,200 feet upstream of Interstate 90	*691
			Approximately 1,500 feet downstream of Williams Road	*714
			Just upstream of Williams Road	*738
			Just upstream of Cascade Road, (approximately 8,000 feet upstream of Williams Road).	*783
			Approximately 850 feet upstream of Cascade Road, (approximately 8,800 feet upstream of Williams Road)	*805
			Just downstream of Girdled Road	*826
		Arcola Creek	Approximately 4.5 miles above mouth, just upstream from Arcola Road	*657
			Just upstream of private drive, about 5,900 feet downstream of State Route 528	*665
			Just upstream State Route 528	*669
			Just upstream Burns Road	*678
			Just downstream McMackin Road	*679
		Kellogg Creek	About 1,400 feet downstream of Morley Road	*694
			Just upstream Morley Road	*698
			Just downstream Prouty Road	*718
			Just downstream dam	*720
			Just upstream dam	*731
			Just upstream Button Road	*744
			Just downstream Mountain Park Drive	*755
			About 1,950 feet upstream Mountain Park Drive	*760
		Church Creek	Just upstream Town Line Road	*582
			Just downstream McMackin Road	*590
			Just upstream McMackin Road	*596
			Just upstream Haines Road	*605
			Just downstream Old Mill Road	*605
			Just upstream Old Mill Road	*610
			Just downstream Green Road	*611
			Just upstream Green Road	*616
			Just downstream Golf Drive located about 2,250 feet upstream of Green Road.	*618
			Just upstream Golf Drive located about 2,250 feet upstream Green Road.	*624
			Just downstream Hubbard Road	*628
		Red Creek	At mouth with Grand River	*589
			Just upstream Mantle Road	*600
			Just downstream Fairport, Painesville and Eastern Railway	*605
			Just upstream Fairport, Painesville and Eastern Railway	*620
			Just downstream U.S. Route 20	*620
			Just upstream U.S. Route 20	*628

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream Conrail	*628
			Just upstream Conrail	*643
			Just downstream Bowhall Road	*643
			Just upstream Bowhall Road	*656
			Just upstream Fairport, Painesville and Eastern Railway (upstream of Bowhall Road).	*660
			Just downstream Park Road	*660
			Just upstream Park Road	*671
			About 2300 feet upstream Park Road	*671
		Red Creek Tributary	Just downstream Fairport, Painesville and Eastern Railway	*643
			About 80 feet upstream Fairport, Painesville and Eastern Railway	*646
			About 650 feet downstream Bowhall Road	*648
			Just upstream Bowhall Road	*665
			Just upstream footbridge, about 1600 feet upstream Bowhall Road	*677
			Just downstream Madison Road	*693
		Rand Ditch	At the Village of Madison corporate limits about 2550 feet above the mouth.	*678
			About 3,500 feet above the mouth	*679
		Lake Erie	Within county boundaries	*576
Maps available at H. T. Nolan Administration Building, 105 Main Street, Painesville, Ohio 44007.				
Ohio	(V) Waterville, Lucas County (Docket No. FI-5688).	Maumee River	Downstream corporate limits	*606
			Just downstream from State Route 64	*612
			Approximately 400 feet upstream from State Route 64	*613
			Just downstream from abandoned Forst Road bridge	*619
			Approximately 400 feet upstream from abandoned Forst Road bridge	*620
			Upstream corporate limits	*622
Maps available at City Hall, Waterville, Ohio 43566.				
Ohio	(C) Xenia, Greene County (Docket No. FEMA 5799).	Shawnee Creek	At most downstream corporate limits	*837
			Just upstream from Tower Road	*885
			Just upstream from West Main Street	*905
			Just upstream from Washington Street	*925
			At corporate limit (located approximately 250 feet upstream from South Monroe Street).	*935
			Just upstream from South Columbus Street	*954
			At corporate limit (approximately 0.35 mile upstream from South Columbus Street).	*959
		Shawnee Park Tributary	At confluence with Shawnee Creek	*893
			Just upstream of North West Street	*899
			About 200 feet upstream of North King Street	*910
			Just upstream of Shawnee Park Dam	*914
			At corporate limits	*920
			Approximately 0.9 mile upstream from Monroe Drive	*934
		Shawnee Creek Tributary	At confluence with Shawnee Creek	*914
			Just downstream of Conrail	*934
			Just upstream of Conrail	*938
			At eastern corporate limits	*952
		Oldtown Creek	At northern corporate limits	*895
			At upstream corporate limits	*918
		West Junior High Tributary	At southern corporate limits	*888
			Just downstream of Bellbrook Road	*904
			Just upstream of Moccasin Trail	*911
			Just downstream of Buckskin Trail	*913
		Glady Run	At downstream corporate limits	*897
			Just downstream from private road located about 100 feet downstream from U.S. Route 42.	*917
			Just upstream from U.S. Route 42	*921
Maps available at City Hall, 101 North Detroit Street, Xenia, Ohio 45215.				
Oklahoma	Town of Jones City, Oklahoma County (FEMA-5757).	North Canadian River	Just upstream of N.E. 78th Street	*1103
			Just upstream of Hiwassee Road	*1117
		North Canadian Tributary 3	Approximately 90 feet downstream of N.E. 78th Street	*1113
			Just upstream of N.E. 78th Street	*1127
		North Canadian Tributary 4	Approximately 130 feet downstream of N.E. 78th Street	*1127
			Just downstream of N.E. 63rd Street	*1151
		North Canadian Tributary 5	Just downstream of St. Louis and San Francisco Railroad	*1109
			Approximately 100 feet upstream of Hiwassee Road	*1160
		North Canadian Tributary 6	Just upstream of N.E. 93rd Street	*1118
			Just upstream of St. Louis and San Francisco Railroad	*1125
		North Canadian Tributary 8X	Approximately 100 feet upstream of St. Louis and San Francisco Railroad.	*1153
			Approximately 125 feet upstream of N.E. 93rd Street	*1154
		North Canadian Tributary 8	Approximately 100 feet upstream of N.E. 108th Street	*1132
Maps available at City Hall, 110 East Main, Jones, Oklahoma 73049.				
Oregon	Rogue River (City), Jackson County, FEMA-5800.	Rogue River	40 feet upstream from center of Depot Street	*999
		Evans Creek	Intersection of creek and center of West Main Street	*996
		Ward Creek	Intersection of creek and Main Street	*1000
Maps available at City Hall, P.O. Box Q, Rogue River, Oregon.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Dallas, Borough, Luzerne County (Docket No FEMA-5800)	Toby Creek	Upstream State Route 309	*1,050
			Approximately 1,750 feet upstream of State Route 309	*1,069
			Upstream Richfield Street (extended)	*1,096
			Confluence of Tributary B to Toby Creek	*1,126
			Confluence of Tributary A to Toby Creek	*1,135
			Downstream Center Hill Road	*1,137
		Tributary A to Toby Creek	Confluence with Toby Creek	*1,135
			Downstream Center Hill Road	*1,139
	Maps available at the Dallas Borough Building, 25 Main Street, Dallas, Pennsylvania.			
Pennsylvania	Great Bend, Township, Susquehanna County (Docket No. FEMA-5800).	Susquehanna River	10,400 feet downstream of U.S. Route 11	*872
			U.S. Route 11 (Upstream side)	*875
			Approximately 13,000 feet upstream of Interstate 81 (Limit of Detailed Study).	*879
		Salt Lick Creek	Confluence with Susquehanna River	*875
			Approximately 4,200 feet upstream of Township Route 842	*885
			Private Road 5,100 feet upstream of Township Route 842 (Downstream side).	*893
			Approximately 320 feet upstream of Private Road 5,100 feet upstream of Township Route 842	*900
			Approximately 2,560 feet downstream of Township Route 747 (extended).	*910
			Approximately 1,280 feet downstream of Township Route 747 (extended).	*920
			Private Road (Downstream side) 480 feet upstream of Township Route 747 (extended).	*930
			Approximately 2,080 feet upstream of Private Road 480 feet upstream of Township Route 747 (extended).	*942
		Trowbridge Creek	Confluence with Susquehanna River	*873
			Interstate 81 (Downstream side)	*880
			Interstate 81 (Upstream side)	*884
			Approximately 800 feet upstream of Interstate 81	*891
			Approximately 1,200 feet upstream of Interstate 81	*898
			Approximately 1,850 feet upstream of Interstate 81	*908
			Approximately 2,920 feet upstream of Interstate 81	*922
			Approximately 3,360 feet upstream of Interstate 81	*930
			Approximately 4,000 feet upstream of Interstate 81	*942
			Approximately 4,850 feet upstream of Interstate 81	*952
			Approximately 180 feet downstream of Private Road (extended)	*962
			Approximately 800 feet upstream of Private Road (extended)	*972
			Upstream Corporate Limits	*982
		DuBois Creek	Confluence with Susquehanna River	*874
			Approximately 1,040 feet upstream of State Route 70	*884
			Approximately 1,460 feet upstream of State Route 70	*893
			Approximately 200 feet downstream of Township Route 846 (extended).	*902
			Approximately 200 feet upstream of Township Route 846 (extended)	*910
			Upstream side of Private Road (extended)	*920
			400 feet downstream of DuBois Street	*932
			Upstream side of DuBois Street	*936
			Approximately 480 feet upstream of DuBois Street	*946
			Approximately 850 feet upstream of DuBois Street	*952
			Approximately 1,430 feet upstream of DuBois Street	*961
			Approximately 2,180 feet upstream of DuBois Street	*972
			Approximately 2,800 feet upstream of DuBois Street	*983
			Footbridge (Downstream side)	*994
			Approximately 480 feet upstream of Footbridge	*1,003
			Access Road upstream	*1,013
			Approximately 420 feet upstream of Access Road	*1,020
			Approximately 840 feet upstream of Access Road	*1,028
			Approximately 1,360 feet upstream of Access Road (at upstream Limit of Detailed Study)	*1,038
	Maps available at the Great Bend Township Building, Route 171, Great Bend, Pennsylvania.			
Pennsylvania	Kingston, Township, Luzerne County (Docket No. FEMA-5800).	Toby Creek	Downstream Corporate Limits	*652
			Upstream State Route 309 (approximately 1,500' upstream of Corporate Limits).	*681
			Upstream State Route 309 (approximately 3,300' upstream of Corporate Limits).	*713
			Approximately 4,300' upstream of Downstream Corporate Limits	*735
			Upstream Private Road (approximately 1,680' downstream of Huntsville Road).	*773
			At confluence of Huntsville Creek	*804
			Upstream Carverton Road	*831
			Upstream Harris Hill Road	*887
			Upstream State Route 309 (approximately 2,300' downstream of Shaver Avenue).	*907
			Upstream State Route 309 (approximately 1,400' downstream of Shaver Avenue).	*921
			Upstream Shaver Avenue	*944
			Upstream State Route 309 (approximately 900' downstream of West Center Street).	*964
			Upstream West Center Street	*1,000
			Upstream Corporate Limits	*1,011

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Snake Creek	Confluence with Toby Creek	*837
			Upstream Private Road	*847
			Upstream Carverton Road (adjacent to Oak Street)	*867
			Upstream Breached Dam	*879
		Tributary C to Abrahams Creek	Downstream Limit of Detailed Study approximately 600' upstream of confluence with Abrahams Creek.	*895
			Upstream Application Route 2188 approximately 1,500' from confluence with Abrahams Creek.	*939
			Upstream Limit of Detailed Study approximately 3,100' from confluence with Abrahams Creek.	*966
Maps available at the Kingston Township Municipal Building, 11 Carbortown, Truckersville, Pennsylvania.				
Pennsylvania	Lower Pottsgrove, Township, Montgomery County (Docket No. FEMA-5800).	Schuylkill River	Downstream Corporate Limits	*130
			Sanatoga Road (Downstream and Upstream side)	*132
			Conrail Bridge (Downstream side)	*134
			Approximately 4,300 feet upstream of Conrail Bridge	*136
			Approximately 3,900 feet downstream of Route 422	*138
			Upstream Corporate Limits	*140
		Sanatoga Creek	Conrail Bridge (Upstream side)	*132
			Approximately 1,050 feet upstream of Green Lane Road	*141
			Downstream Dam approximately 1,900 feet downstream of U.S. Route 422.	*144
			Upstream Dam approximately 1,900 feet downstream of U.S. Route 422.	*157
			East High Street (Upstream side)	*163
			Sanatoga Road (Downstream side)	*170
			Sanatoga Road (Upstream side)	*178
			Snell Road (Downstream side)	*187
			Snell Road (Upstream side)	*191
			Approximately 1,500 feet upstream of Snell Road	*201
			Approximately 700 feet downstream of Pruss Hill Road	*209
			Pruss Hill Road (Downstream side)	*217
			Pruss Hill Road (Upstream side)	*220
			Upstream side of (Pruss Hill) Dam	*230
		Sprogel Run	Conrail Bridge (Upstream side)	*134
			East High Street (Upstream side)	*144
			Sunny Brook Road (Downstream side)	*147
			Sunny Brook Road (Upstream side)	*151
			Approximately 1,200 feet downstream of Keim Road	*159
			Keim Road (Downstream side)	*164
			Keim Road (Upstream side)	*169
			North Adams Drive (Downstream side)	*170
			North Adams Drive (Upstream side)	*185
			Buchert Road (Upstream side)	*187
			State Route 663 (Downstream side) at Upstream Corporate Limits	*197
Maps available at the Lower Pottsgrove Municipal Building, at the intersection of Old Route 422 and Sunnybrook Road, Lower Pottsgrove, Pennsylvania.				
Pennsylvania	Marion, Township, Berks County (Docket No. FEMA-5768).	Tulpehocken Creek	Approximately 1,600' upstream of Route 422	*361
			Extension of Private Road that intersects and is north of Main Street	*370
			Main Street (Downstream)	*375
			Private Road that intersects and is south of Main Street	*383
			Richland Road (Downstream)	*389
Maps available at the Marion Township Offices, Marion, Pennsylvania.				
Pennsylvania	North Cornwall, Township, Lebanon County (Docket No. FEMA-5800).	Quittapahilla Creek	Township of North Cornwall/Township of Annville Corporate Limits	*418
			Mill Street (Upstream)	*423
			Dairy Road (Upstream)	*430
			West Chestnut Street (Upstream)	*434
			22nd Street (Upstream)	*439
			16th Street (Downstream)	*444
		Snitz Creek	Dairy Road (Upstream)	*432
			Walnut Street (Upstream)	*436
			Downstream of Footbridge on downstream side of Building 500 feet downstream of Oak Street.	*439
			Upstream of building located 500 feet downstream of Oak Street	*445
			Colebrook Road (Upstream)	*452
			Private Drive located 2,200 feet upstream of Farm Road (Upstream)	*461
			Rocherty Road (Upstream)	*470
			600 feet upstream of Snitz Road	*472
Maps available at the North Cornwall Township Building, 320 South 18th Street, North Cornwall, Pennsylvania.				
Pennsylvania	Oakland, Borough Susquehanna County (Docket No. FEMA-5800).	Susquehanna River	Oakland Power Plant Dam (Upstream)	*904
			Upstream Corporate Limits	*906
Maps available at the Oakland Borough Building, 14 High Street, Oakland, Pennsylvania.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Township of Rice, Luzerne County (Docket No. FEMA-5734).	Big Wapwallopen Creek	Downstream Corporate Limits	*1,063
			County Road, Blytheburn Road (Upstream)	*1,068
			Legislative Route 40112 (Upstream)	*1,136
			Legislative Route 40024 (Upstream)	*1,265
			Upstream Corporate Limits	*1,346
	Maps available at the Township Fire House, Rice, Pennsylvania.			
Pennsylvania	Township of Sheshequin, Bradford County (Docket No. FEMA-5726).	Susquehanna River	Downstream Corporate Limits	*723
			Confluence of Horn Brook	*733
			Legislative Route 08073 (Upstream)	*737
			Upstream Corporate Limits	*755
		Horn Brook	Confluence with Susquehanna River	*733
			Legislative Route 08077 (Upstream)	*867
		Deer Lick Creek	Confluence with Susquehanna River	*738
		Spaulding Creek	Confluence with Susquehanna River	*740
			Legislative Route 08077 (Upstream)	*758
			3,500' upstream of Legislative Route 08077	*820
		Mallory Creek	Confluence with Susquehanna River	*748
			Legislative Route 08077 (Upstream)	*794
	Maps available at the Township Building, Ulster, Pennsylvania.			
Pennsylvania	West Lampeter, Township, Lancaster County (Docket No. FEMA-5780).	Conestoga Creek	Approximately 0.42 mile downstream of the Abandoned Railroad	*241
			Highland Avenue (Upstream)	*247
			Corporate Limits (approximately 0.36 mile downstream of Strawberry Street).	*252
			Corporate Limits (approximately 0.42 mile upstream of Strawberry Street).	*257
			Buttercup Road Extended	*266
			Most Upstream Corporate Limits	*267
		Mill Creek	Confluence with Conestoga Creek	*229
			Eckman Road Upstream	*240
			Hollinger Road Upstream	*247
			Willow Street Pike Upstream	*253
			Upstream of Park Drive	*265
			Eshelman Mill Road Upstream	*269
			Gypey Hill Road Upstream	*278
			Lampeter Road Upstream	*284
			Upstream Corporate Limits	*295
	Maps available at the West Lampeter Township Building, West Lampeter, Pennsylvania.			
Rhode Island	Scituate, Town, Providence County (Docket No. FEMA-5815).	North Branch, Pawtuxet River	0.45 miles downstream of Access Road	*146
			Approximately 50 feet downstream of Access Road	*159
			Approximately 70 feet upstream of Access Road	*162
			Upstream side of dam located 340 feet upstream of Access Road	*174
			490 feet downstream of State Route 116	*184
			Downstream side of dam located 215 feet upstream of State Route 116.	*189
			Upstream side of dam located 215 feet upstream of State Route 116	*201
			1.77 miles upstream dam located 215 feet upstream of State Route 116.	*205
	Maps available at the Scituate Town Hall, Main Street, North Scituate, Rhode Island.			
South Carolina	Unincorporated areas of Anderson County (Docket No. FEMA-5799).	Beaver Creek	Just upstream of State HWY 106	*614
			Just upstream of State HWY 152	*649
			Just downstream of State HWY 475	*727
		Big Generostee Creek	Just upstream of State HWY 258	*664
			Just downstream of Lewis Street	*687
		Byrum Creek	Just upstream of Booker Street	*685
			Just upstream of Market Street	*700
			Just downstream of Simpson Street	*715
		Hembree Creek	Just downstream of Phil Watson Road	*680
			Just upstream of Salem Church Road	*703
		Rocky River	Just downstream of State HWY 283	*653
			Just downstream of Rodgers Road	*674
			Just downstream of Cox Road	*686
		Salem Creek	Just downstream of Gerrard Road	*740
		Saludo River	Just upstream of State HWY 86	*778
			Just downstream of I-85	*792
		Eighteen Mile Creek	Just downstream of the Blue Ridge Railroad	*700
			Just downstream of U.S. Highway 76	*702
		Shanklin Creek	Just upstream of Thomas Court	*761
			Just upstream of East Queen Street (State HWY 300)	*782
		Cox Creek	At the confluence of Cox Creek Tributary	*664
		Rocky River Tributary	Just upstream of Gossett Street	*682
	Maps availabe at Anderson County Planning and Development Board, Director's Office, 201 N. Main Street, Suite 313, Anderson, South Carolina 29621.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
South Dakota	Custer (City) Custer County FEMA-5799.	French Creek	100 feet upstream from center of 11th Street	*5,292
			100 feet upstream from center of 4th Street	*5313
			100 feet upstream from center of Mt. Rushmore Road	*5,325
		Laughing Water Creek	100 feet upstream from center of Burlington Northern Railroad	*5,294
			100 feet upstream from center of Clay Street	*5,338
	Maps available at City Hall, 622 Crook, Custer, South Dakota.			
Texas	Unincorporated areas of Hidalgo County (FEMA-5800).	Ponding in Shallow depressions	Approximately 1,000 feet north of intersection of 1425 and Southern Pacific Railroad.	*51
			At the intersection of Mile 3 East Road and Mile 16½ North Rd.	*51
			Just south of intersection of FM 491 and Unnamed Road west of Main Supply Canal.	*55
			At the intersection of FM 491 and Mile 17½ North Road	*56
			Approximately 500 feet north of the intersection of Mile 18 North Road and west levee of North Floodway.	*56
			Just west of intersection of Southern Pacific Railroad and North Floodway.	*57
			On Mile 10 North Road 0.6 mile west of Mile 1 East Road	*58
			At Tenth Street crossing of Arroya Anacuitas	*58
			At the intersection of Mile 3½ West Road and Mile 6 North Road	*69
			At the intersection of FM 88 and Mile 5 North Road	*72
			Approximately 3,000 feet east of intersection of FM 493 and Mile 15½ North.	*73
			At the intersection of Mile 17 North Road and Sharp Road	*77
			At the intersection of North 3rd Road and Mile 17 North Road	*77
			At the intersection of Donna Main Canal and North Main Floodway's North Levee.	*85
			Approximately 1,500 feet south of intersection of FM 3072 and U.S. 281.	*85
			At the intersection of Kimble Avenue and Power Street in Lull, Texas	*88
			Approximately 2,700 feet south of the intersection of Moore and South Road.	*90
			On Jackson Road (FM 2061) just south of Mission floodway	*92
			At the intersection of Jackson Road and Mile 17½ North Road	*94
			Just south of Mission floodway and 2 blocks west of McColl Road	*95
			Approxmately 500 feet south of the intersection of Sprague Road and McColl Road.	*98
			At the intersection of Canton Road and Sugar Road	*99
			At the intersection of Minnesota Road and FM 1426	*100
			At the intersection of Eldora Road and North Road	*103
		Rio Grande	At City of LaJoya eastern corporate limits extended	*131
			At Hidalgo-Starr County Line	*139
	Maps available at Flood Director's Office, Hidalgo County Courthouse Annex, Edinburg, Texas 78539.			
Texas	City of Jasper, Jasper County (FEMA-5799).	Sandy Creek	Just downstream of South Peachtree Street	*208
			Just downstream of North Wheeler Street	*211
			Just upstream of Mandel Street	*213
			Approximately 80 ft. upstream of Gulf Colorado & Santa Fe Railroad	*214
		Sandy Creek Tributary	Approximately 35 ft. downstream of Mayo Street	*221
			Just upstream of Burch Street extended	*241
		Trotti Creek	Approximately 30 ft. downstream of Woodland Park Avenue	*219
			Approximately 80 ft. upstream of Morris Street	*228
			Approximately 40 ft. downstream FM 2800 (Munson Street)	*239
	Maps available at City Clerk's Office, City Hall, 272 East Lamar Street, Jasper, Texas 75951.			
Vermont	Enosburg, Town, Franklin County (Docket No. FEMA-5798).	Missisquoi River	Downstream corporate limits	*397
			Town Route 2	*402
			Approximately 5,900 feet upstream of Town Route 2	*405
			Approximately 8,305 feet upstream of Town Route 2	*409
			Upstream corporate limits	*411
	Maps available at Enosburg Town Offices, 95 Main Street, Enosburg Falls, Vermont.			
Vermont	Enosburg Falls, Village, Franklin County (Docket No. FEMA-5798).	Missisquoi River	Downstream corporate limits	*379
			80 feet downstream of Old Route 108	*383
			Downstream Enosburg Water and Light Dam	*385
			Upstream Enosburg Water and Light Dam	*395
			Confluence of Trout Brook	*397
			Upstream corporate limits	*398
	Maps available at the Village Office, 95 Main Street, Enosburg Falls, Vermont.			
Vermont	Essex Junction, Village, Chittenden County (Docket No. FEMA-5798).	Winooski River	Downstream corporate limits	*218
			10,000 feet upstream of downstream corporate limits	*219
			Downstream of U.S. Route 2A	*225
			Downstream of Green Mountain Power Dam	*245
			Upstream of Green Mountain Power Dam	*285
			Upstream corporate limits	*287
	Maps available at the Village Office, Essex Junction, Vermont.			
Wisconsin	(V) Bangor, LaCrosse County (Docket No. FEMA 5799).	LaCrosse River	Downstream corporate limits (about 0.9 mile downstream 17th Avenue).	*712
			Just upstream 17th Avenue	*716
			Upstream corporate limits	*718

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Dutch Creek	Mouth at LaCrosse River	*716
			Just upstream Pearl Street	*721
			Upstream corporate limits	*739
Maps available at Village Clerk's Office, Bangor, Wisconsin 54614.				
Wisconsin	Black Earth (Village), Dane County, FEMA-5728.	Black Earth Creek	U.S. Highway 14 (downstream crossing), 50 feet downstream from centerline.	*808
			Chicago, Milwaukee, St. Paul, and Pacific Railroad at centerline	*817
		Vermont Creek	County Highway KP at centerline	*813
Maps available at Village Clerk's Office, Village Hall, 1210 Mills Street, Black Earth, Wisconsin.				
Wisconsin	(V) Fredonia, Ozaukee County (Docket No. FEMA-5800).	Milwaukee River	About 0.5 mile downstream of State Highway 84	*779
			Just downstream of State Highway 84	*783
		Unnamed Tributary No. 1	Mouth at Milwaukee River	*780
			Just downstream of Fredonia Avenue	*794
			800 feet upstream of Fredonia Avenue	*797
Maps available at Village Clerk's Office, Village Hall, 416 Fredonia Avenue, Fredonia, Wisconsin 53021.				
Wisconsin	(C) Neenah, Winnebago County (Docket No. FEMA 5799).	Lake Winnebago	Entire shoreline coincident with corporate limits	*750
		Fox River (Neenah Channel)	At northern corporate limits	*743
			At Soo Line Railroad Bridge	*743
			Just downstream from Neenah Dam	*745
			Just upstream from Neenah Dam	*749
			At confluence with Lake Winnebago	*750
		Neenah Slough	At confluence with Fox River (Neenah Channel)	*743
			At Winneconne Avenue	*744
			Just downstream Green Bay Road	*745
			At southern corporate limits	*745
Maps available at City Hall, P.O. Box 426, Neenah, Wisconsin 54956.				
Wisconsin	(V) Rochester Racine County (Docket No. FEMA 5799).	Fox River	Downstream corporate limits	*764
			Just downstream of Rochester Dam	*766
			Just downstream of Main Street	*768
			Upstream corporate limits	*769
		Wind Lake Canal	About 400 feet downstream North River Road	*768
			About 1,050 feet upstream of North River Road	*769
			About 370 feet upstream State Highway 83 and State Highway 36	*770
Maps available at Village Clerk, Village Hall, Rochester, Wisconsin 53167.				
Wisconsin	(V) Waterford, Racine County (Docket No. FEMA-5800).	Fox River	The southern corporate limits	*769
			Confluence of East Channel Fox River	*771
			Upstream of West Waterford Dam	*775
			Northern corporate limits	*775
		East Channel Fox River	Upstream Third Street	*772
			Upstream of East Waterford Dam	*775
Maps available at Office of Village Clerk, Village Hall, Waterford, Wisconsin 53185.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator.)

Issued: July 14, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-23299 Filed 8-4-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[Docket No. 21142; FCC 80-421]

Amendment of Parts 89, 91, 93, and 95 (General Mobile Radio Service) of the Commission's Rules and Regulations To Replace the Low-Pass Audio Filtering Requirements With a Revised Emission Limitation Standard

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: The Associated Public Safety Communications Officers, Inc. (APCO) petitioned the Commission to reconsider its decision authorizing digital voice emission (F3Y) and digital data (F9Y) emission in the Police and Fire Radio Services in order to require prior coordination of applications in these services for the use of these modulation modes. The FCC has considered and granted this request.

EFFECTIVE DATE: September 2, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau (202) 632-6497.

[45 FR 6586]

Adopted: July 17, 1980; released: July 28, 1980.

In the matter of amendment of Parts 89, 91, 93 and 95 (General Mobile Radio Service) of the Commission's rules and regulations to replace the low-pass audio filtering requirements with a revised emission limitation standard [45 FR 6586].

By the Commission: 1. We have before us a petition from the Associated Public Safety Communications Officers, Inc. (APCO) asking limited reconsideration of our *Second Report and Order* in

Docket No. 21142. [1] Specifically, APCO asks that we require prior frequency coordination for changes in existing systems to authorize the use of digital voice emission (F3Y) in channels allocated to the Police and Fire Radio Services.[2]

2. In support of its request, APCO points out that we recognized the need to coordinate digital operations with existing analog systems when we adopted the interim standard for digital systems in our First Report and Order. [3] Now that we have adopted the authorization of digital voice emission in the Police and Fire Radio Services on a permanent basis [4] it asks that we add appropriate language to our rules to make explicit this need for prior frequency coordination for the use of digital voice emission.

3. We have considered APCO's request and we concur in APCO's conclusion that prior frequency coordination is desirable. This would be consistent with the views we expressed in our First Report and Order.

4. We consequently find that granting this request would be in the public interest, and we are amending our rules accordingly.

5. Therefore, pursuant to the authority contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 1.429 of the Commission's rule, and regulations, it is ordered That effective

September 2, 1980, Part 90 of the Commission's rules and regulations is amended as set forth in the attached Appendix. It is further ordered this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

1. Section 90.19 is amended by adding paragraph (h) to read as follows:

* * * * *

(h) Digital emission. A licensee may use F3Y (digital voice) or F9Y (digital data) emission subject to the provisions of § 90.175 and Paragraphs (a), (b) and (d) of § 90.233.

2. Section 90.21 is amended by adding paragraph (f) to read as follows:

§ 90.21 Fire radio service.

* * * * *

(f) Digital emission. A licensee may use F3Y (digital voice) or F9Y (digital data) emission subject to the provisions of Section 90.175 and paragraphs (a), (b) and (d) of § 90.233.

3. Section 90.175 is amended to read as follows:

§ 90.175 Frequency coordination requirements.

Except for applications listed in paragraph (e) of this section, each application: (1) for a new frequency assignment; or (2) for a change in existing facilities by increasing the authorized power, raising the authorized antenna height, or changing the authorized station location or the location of the antenna; or (3) for the addition of a base station within the licensee's existing area of operation; or (4) for a change to or the addition of F3Y (digital voice) or F9Y (digital data) emission, shall include a showing of frequency coordination as set forth in either paragraph (a) or (b) of this section.

* * * * *

4. Section 90.207(K) is amended to read as follows:

§ 90.207 Types of emission.

* * * * *

(K) For stations utilizing digital voice modulation in either the scrambled or unscrambled mode, F3Y emission is construed to include the use of F9Y emission subject to the provisions of § 90.175 and paragraphs (a), (b) and (d) of § 90.233.

[FR Doc. 80-23395 Filed 8-4-80; 8:45 am]

BILLING CODE 6712-01-M

[1] See *Second Report & Order*, Docket No. 21142, (FCC 79-756, Released December 3, 1979).

[2] See generally the *First Report and Order*, Docket No. 21142, FCC 78-70 released February 9, 1978, and the *Second Report and Order, supra*, which authorized digital voice (F3Y) and digital data (F9Y) emission in the Police and Fire Radio Services.

[3] See *First Report and Order, Docket No. 21142, supra*, at para. 5.

". . . we believe that considering the untried nature of digital voice modulation, it would be prudent to restrict its authorization to those services where re-use of a frequency in a particular geographic area is at a minimum, or where such use is carefully coordinated among licensees engaged in essentially similar activities. Such conditions generally exist in the Police and Fire Radio Services."

[4] See *Second Report and Order, Docket No. 21142, supra*, at para. 24.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1424, Amdt. 1]

Massachusetts Central Railroad Corp. Authorized To Operate Over Tracks Formerly Operated by Boston and Maine Corp., Robert W. Meserve and Benjamin H. Lacy, Trustees

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1424.

SUMMARY: This order amends Service Order No. 1424 by extending its expiration date until 11:59 p.m., August 31, 1980. This is done in order to provide interim service during the period the Commission is preparing its supplemental report on Docket No. AB32 (Sub-No. 6F), as remanded by the B&M reorganization court.

EFFECTIVE DATE: 11:59 p.m., July 31, 1980, and continuing in effect until modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr. (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided: July 30, 1980.

Upon further consideration of Service Order No. 1424, (45 FR 8304), and good cause appearing therefor:

It is ordered,

§ 1033.1424 Service Order No. 1424

(Massachusetts Central Railroad Corporation authorized to operate over tracks formerly operated by Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees) is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

(f) *Effective date.* This amendment shall become effective at 11:59 p.m., July 31, 1980.

This action taken under authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23454 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1351, Amdt. 3]

Massachusetts Central Railroad Corp. Authorized To Operate Over Tracks Formerly Operated by Boston and Maine Corp., Robert W. Meserve and Benjamin H. Lacy, Trustees

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 3 to Service Order No. 1351.

SUMMARY: This order amends Service Order No. 1351 by extending its expiration date until 11:59 p.m., August 31, 1980. This is done to provide interim service during the period the Commission is preparing its supplemental report on Docket No. AB32 (Sub-No. 6F), as remanded by the B&M Reorganization Court.

EFFECTIVE DATE: 11:59 p.m., July 31, 1980, and continuing in effect until modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr. (202) 275–7840.

Decided: July 30, 1980.

Upon further consideration of Service Order No. 1351, (44 FR 879 and 39407, 45 FR 26965), and good cause appearing therefor:

It is ordered, § *1033.1351 Service Order No. 1351* (Massachusetts Central Railroad Corporation authorized to operate over tracks formerly operated by Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees) is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 31, 1980.

This action taken under authority of 49 U.S.C. 10304–10305 and 11121–11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23456 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1420, Amdt. 2]

Tippecanoe Railroad Co. Authorized To Operate Over Tracks Leased From the State of Indiana

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1420.

SUMMARY: This order amends Service Order No. 1420 by extending its expiration date until September 30, 1980. Service Order No. 1420 authorizes Tippecanoe Railroad Company to operate over tracks leased from the State of Indiana.

EFFECTIVE DATE: 11:59 p.m., July 31, 1980, and continuing in effect until 11:59 p.m., September 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Decided: July 30, 1980.

Upon further consideration of Service Order No. 1420 (45 FR 2655 and 45 FR 45288), and good cause appearing therefor:

It is ordered, § *1033.1420 Service Order No. 1420* (Tippecanoe Railroad Company authorized to operate over tracks leased from the State of Indiana) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1980, unless modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23455 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1373, Amdt. 2]

Substitution of Insulated Boxcars for Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1373.

SUMMARY: This order amends Service Order No. 1373 by extending its expiration date until October 13, 1980. Service Order No. 1373 permits the Atchison, Topeka and Santa Fe Railway Company (ATSF) to substitute one insulated boxcar for each boxcar ordered for shipments of grain from any station on the ATSF and destined to any other station on the ATSF, and for interchange to Mexican Railroads.

EFFECTIVE DATE: 11:59 p.m., July 31, 1980, and continuing in effect until 11:59 p.m., October 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Decided: July 30, 1980.

Upon further consideration of Service Order No. 1373, (44 FR 21797, 45 FR 26963), and good cause appearing therefor:

It is ordered, § *1033.1373 Service Order No. 1373* (Substitution of Insulated Boxcars) for Boxcars is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This order shall become effective at 11:59 p.m., July 31, 1980.

This action is taken under authority of 49 U.S.C. 10304–10305 and 11121–11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23457 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1425, Amdt. 2]

Atchison, Topeka and Santa Fe Railway Co. Authorized To Transport Grain in Covered Hopper Cars to Mexico at Reduced Carload Minimum Weights

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1425.

SUMMARY: This order amends Service Order No. 1425, which authorized the Atchison, Topeka and Santa Fe Railway to transport grain in covered hopper cars to Mexico at reduced carload minimum weights, by extending the expiration date until 11:59 p.m., October 31, 1980.

DATES: Effective: 11:59 p.m., July 31, 1980. Expires: 11:59 p.m., Oct. 31, 1980.

FOR FURTHER INFORMATION CONTACT:

M. F. Clemens, Jr. (202) 275-7840.

Decided: July 30, 1980.

Upon further consideration of Service Order No. 1425, (45 FR 7551 and 29840), and good cause appearing therefor:

It is ordered, § *1033.1425 Service Order No. 1425* (The Atchison, Topeka and Santa Fe Railway Company authorized to transport grain in covered hopper cars to Mexico at reduced carload weights is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 31, 1980.

This action is taken under authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23458 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1472-A]

St. Maries River Railroad Co. Authorized To Operate Over Lines Conveyed by the Trustee of Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1472-A.

SUMMARY: This order vacates Service Order No. 1472, which permitted the St. Maries River Railroad Company to operate over tracks formerly operated by the Milwaukee Railroad, and which authority is now in Second Revised Service Order No. 1474.

EFFECTIVE DATE: 11:59 p.m., July 31, 1980.

FOR FURTHER INFORMATION CONTACT:

M. F. Clemens, Jr. (202) 275-7840.

Decided: July 30, 1980.

Upon further consideration of Service Order No. 1472 (45 FR 36080), and good cause appearing therefor:

It is ordered,

§ 1033.1472 Service Order No. 1472 (St. Maries River Railroad Company authorized to operate over lines conveyed by the trustee of Chicago, Milwaukee, St. Paul and Pacific Railroad Company) is vacated effective 11:59 p.m., July 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23459 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1479]

Substitution of Hopper Cars for Covered Hopper Cars of Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1479.

SUMMARY: There is a shortage of covered hopper cars and plain boxcars for shipments of grain, grain products, soybeans and sunflower seed. Supplies of open hopper cars can be made available to shippers willing to substitute those cars for covered hoppers or boxcars. However, in some instances, the rates are applicable only to shipments loaded into covered hopper cars or boxcars. Service Order No. 1479 authorizes railroads, subject to the consent of the shipper, to substitute open hopper cars for covered hopper cars or boxcars ordered for shipments of these commodities.

DATES: Effective 12:01 a.m., August 1, 1980. Expires 11:59 p.m., October 31, 1980.

FOR FURTHER INFORMATION CONTACT:

M. F. Clemens, Jr., (202) 275-7840.

Decided: July 30, 1980.

There is a shortage of covered hopper cars and boxcars for transporting shipments of grain, grain products, grain screenings, soybeans, or sunflower seed in certain sections of the country. Some carriers have adequate supplies of open hopper cars. Use of these cars for transporting grain, grain products, grain screenings, soybeans or sunflower seed is precluded by certain tariff provisions

requiring the use of covered hopper cars or boxcars, thus curtailing shipments of grain, grain products, grain screenings, soybeans, or sunflower seed.

It is the opinion of the Commission that an emergency exists requiring the use of open hopper cars in lieu of covered hopper cars and boxcars, with shipper concurrence, in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1479 Service Order No. 1479.

(a) *Substitution of Hopper Cars for Covered Hopper Cars or Boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Substitution of Cars.* Subject to the concurrence of the shipper, carriers may substitute open hopper cars for shipments of grain, grain products, grain screenings, soybeans, or sunflower seed, whether from the point of origin or from an intermediate in-transit point, regardless of tariff provisions requiring the use of covered hoppers or boxcars.

(2) *Minimum Weights.* The minimum weights per shipment of grain, grain products, grain screenings, soybeans, or sunflower seed transported in open hopper cars substituted for covered hopper cars or boxcars shall be the minimum weights specified in the tariffs for shipments made in covered hopper cars or boxcars regardless of the number of open hopper cars required to be used to secure the minimum weight.

(3) In shipping grain, grain products, grain screenings, soybeans, or sunflower seed in open hopper cars in lieu of covered hopper cars or boxcars as provided herein, the shipper shall be deemed to have acknowledged the terms and conditions of the contract of carriage embodied in the bill of lading that the carrier shall not be liable for injury, loss, or damage to the lading resulting from a defect or vice in such property.

(4) Bills of lading covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1479.

(5) The term "open hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C.–R.E.R. 6410E, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "HAF," "HK," "HM," "HMA," "HT," "HTA," or *"MWB."

(6) The term "covered hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C. 6410E, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "LO."

(7) The term "boxcars" means all cars listed in the Official Railway Equipment Register, I.C.C. 6410E, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XM," or "XML."

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., August 1, 1980.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23460 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[5th Rev. Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Rock Island and Pacific Railroad Co., Debtor, (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fifth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

In particular, Fifth Revised Service Order No. 1473, is revised by adding to Item 5, the authority for Burlington Northern Inc., to operate between Dellavale and Gem, Kansas, and for the Baltimore and Ohio Railroad Company to operate between Blue Island and Bureau, Illinois, Item 23. Further, Fifth Revised Service Order No. 1473 is vacated, insofar as it authorizes the Fenn Valley Railroad to operate over lines of the Rock Island, due to an apparent inability to initiate and provide service as authorized. This authority is vacated without prejudice to future filings by Fenn Valley wherein the carrier provides sufficient assurance to the Commission of its ability to provide the services described in its application.

EFFECTIVE DATE: 12:01 a.m., August 1, 1980, and continuing in effect until 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Decided: July 30, 1980.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Fifth Revised Service Order No. 1473, is revised by adding to Item 5, the authority for Burlington Northern Inc., to operate between Dellavale and Gem, Kansas, and for the Baltimore and Ohio Railroad Company to operate between Blue Island and Bureau, Illinois, Item 23. Further, Fifth Revised Service Order No. 1473 is vacated, insofar as it authorizes the Fenn Valley Railroad to operate over lines of the Rock Island, due to an apparent inability to initiate and provide service as authorized. This authority is vacated without prejudice to future filings by Fenn Valley wherein the

carrier provides sufficient assurance to the Commission of its ability to provide the services described in its application.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations, also identified in the attachment, using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Fifth Revised Service Order No. 1473.

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the RI lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines; all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees*—In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., August 1, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (L&A):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of the Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

B. From Hodge to Winnfield, Louisiana.

C. Alexandria Yard, Alexandria, Louisiana.

2. *Peoria and Pekin Union Railroad Company (P&PU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. From Colby to Caruso, Kansas.

C. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. *Toledo, Peoria and Western Railroad Company (TP&W):*

A. Keokuk, Iowa.

B. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Burlington Northern, Inc. (BN):*

A. Burlington, Iowa (milepost 0 to milepost 2.06).

B. Fairfield, Iowa.

C. Henry, Illinois (milepost 126) to Peoria, Illinois (milepost 164.35) including the Keller Branch (milepost 1.55 to 8.62).

D. Phillipsburg, Kansas (milepost 282) to CBQ Junction, Kansas (milepost 325.9).

*E. Dellavale, Kansas (milepost 526.7) to Gem, Kansas (milepost 380.5).

6. *Fort Worth and Denver Railroad Company (FW&D):*

A. From Groom, Texas (milepost 718.9) to Adrian, Texas (milepost 809.5).

B. Terminal trackage at Amarillo, Texas, including approximately (3) three miles northerly along the old Liberal Line, and at Bushland, Texas.

C. North Fort Worth, Texas (milepost 603.0 to milepost 611.4).

7. *Chicago and North Western Transportation Company (C&NW):*

A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6)

E. From Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364).

F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0)

H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 502.2).

I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. From Iowa Falls (milepost 97.4) to Esterville, Iowa (milepost 206.9).

K. From Rake (milepost 50.7) to Ocheyedan, Iowa (milepost 502).

L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. From Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6)

P. Sibley, Iowa.

Q. Worthington, Minnesota.

R. Altoona to Pella, Iowa.

S. Carlisle, Indianola, Iowa.

T. Omaha, Nebraska, (between milepost 502 to milepost 504).

U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).

8. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee):*

A. From West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. From Seymour, to and including industry and team tracks at Centerville, Iowa.

C. Washington, Iowa.

D. From Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

9. *Davenport, Rock Island and North Western Railroad Company (DRI):*

A. Davenport, Iowa.

B. Moline, Illinois.

C. Rock Island, Illinois, including 26th Street yard.

D. From Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex.

E. From East Moline to Silvis, Illinois.

F. From Davenport to Wilton, Iowa.

G. From Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island arsenal.

10. *Illinois Central Gulf Railroad Company (ICG):* Ruston, Louisiana.

11. *St. Louis Southwestern Railway Company (SSW):* operating the Tucumcari Line from Santa Rosa, NM, to St. Louis, MO (via Kansas City, KS/MO), a total distance of 965.2 miles. The line also includes the RI branch line from Bucklin to Dodge City, KS, a distance of 26.5 miles, and North Topeka, KS. Also between Brinkley and Briark, Arkansas, and at Stuttgart, Arkansas.

12. *The Southwestern Oklahoma Railroad Company:* from Hobart, Oklahoma (milepost 70) to Mangum, Oklahoma (milepost 97.7), and from Hobart, (milepost 70) to Anadarko, Oklahoma (milepost 18.5).

13. *Little Rock & Western Railway Company:* from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

14. *Missouri Pacific Railroad Company:* from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7

15. *Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company:*

A. Herington-Ft. Worth Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 439.5 miles to milepost 613.5 within the City of Ft. Worth, Texas, and use of Fort Worth and Denver trackage between Purina Junction and Tower 55 in Ft. Worth.

B. Ft. Worth-Dallas Line of Rock Island: beginning at milepost 611.9 within the City of Ft. Worth, Texas, and extending for a distance of 34 miles to milepost 646, within the City of Dallas, Texas.

C. El Erno-Oklahoma City Line of Rock Island: beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 496.4 within the City of Oklahoma City, Oklahoma.

D. Salina Branch Line of Rock Island: beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, including RI trackage rights over the line of the Union Pacific Railroad Company to Salina, (including yard tracks) Kansas.

E. Right to use joint with other authorized carriers the Herington-Topeka Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 81.6 miles to milepost 89.9 within the City of Topeka, Kansas, as bridge rights only.

F. Rock Island rights of use on the Wichita Union Terminal Railway Company and the Wichita Terminal Association, all located in Wichita, Kansas.

G. Rock Island right to interchange with and use the properties of the Great Southwest Railroad Company located in Grand Prairie, Texas.

H. The Atchison Branch from Topeka, at milepost 90.5, to Atchison, Kansas, at milepost 519.4 via St. Joseph, Missouri, at mileposts 0.0 and 498.3, including the use of interchange and yard facilities at Topeka, St. Joseph and Atchison, and the trackage rights used by the Rock Island to form a continuous service route, a distance of 111.6 miles.

I. The Ponca City Line at approximately milepost 26.1 at Billings, Oklahoma, to North Enid, Oklahoma, at milepost 339.5 on the Southern Division main line, a distance of 26.1 miles.

J. That part of the Mangum Branch Line from Chickasha, milepost 0.0 to Anadarko at milepost 18, thence south on the Anadarko Line at milepost 460.5 to milepost 485.3 at Richards Spur, a distance of 42.8 miles.

K. Oklahoma City-McAlester Line of Rock Island: Beginning at milepost 496.4 within the City of Oklahoma City, Oklahoma, and extending for a distance of 131.4 miles to milepost 365.0 within the City of McAlester, Oklahoma.

16. *El Dorado and Wesson Railroad Company:* from El Dorado to Catesville, Arkansas, a distance of 8 miles, in order to serve the Velsical Plant.

17. *The Denver and Rio Grande Western Railroad Company:* A. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado, (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.

18. *Norfork and Western Railway Company:* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Juction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port District. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calument Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

19. *St. Louis-San Francisco Railway Co.:*

A. At Okeene, Oklahoma.

B. At Lawton, Oklahoma.

20. *Southern Railway Company:*

A. At Memphis, Tennessee.

21. *Winchester and Western Railroad Company:*

A. LaSalle to Ottawa, Illinois, a distance of approximately 14 miles.

22. *Cadillac and Lake City Railroad:*

A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 3.9) all in the vicinity of Denver, Colorado.

*23. *Baltimore and Ohio Railroad Company:* A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

[FR Doc. 80-23461 Filed 8-4-80; 8:45 am]
BILLING CODE 7035-01-M

*Added.

Proposed Rules

Federal Register
Vol. 45, No. 152
Tuesday, August 5, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced in the Far West; Proposed Salable Quantities and Allotment Percentages for the 1980-81 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This is a proposal to establish the quantity of Spearmint oil produced in the Far West, by class, that may be freely marketed by handlers from the 1980 crop. The action is taken under the marketing order for spearmint oil produced in the Far West to promote orderly marketing conditions.

DATE: Comments due August 12, 1980.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials should be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. (202) 447-5053. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: The proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "significant".

J. S. Miller, Chief, Specialty Crops Branch, has determined that an emergency situation exists which warrants less than a 60 day comment period on this proposed action because the 1980-81 marketing year began June 1, 1980, and handlers have started handling oil. Producers are cutting spearmint hay, distilling oil, and delivering oil to handlers. Thus, producers and handlers must know soon what regulation will be in effect for the 1980-81 marketing year and additional time for filing comments on this proposal would cause undue hardship.

The proposed salable quantity and allotment percentage for each class of spearmint oil would be established in accordance with the provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was recommended by the Spearmint Oil Administrative Committee.

The salable quantity and allotment percentage proposed for each class of spearmint oil for the 1980-81 marketing, beginning June 1, 1980, are based upon recommendations of the Committee made at its meetings of May 22-23, 1980, and June 18, 1980. In arriving at its recommendations, the Committee took the following estimates into consideration.

(1) "Class 1" Oil (1st Cutting Scotch)

(A) Carryin from previous years—652,000 pounds.

(B) Estimated 1980 production of 616,000 pounds.

(C) Estimated trade demand (domestic and export) for the 1980-81 marketing year of 900,000 pounds.

(D) Estimated carryout, May 31, 1981, of 368,000 pounds.

(E) Estimated total allotment bases—1,170,000 pounds.

(2) "Class 2" Oil (2nd Cutting Scotch)

(A) Carryin from previous yeas 119,000 pounds.

(B) Estimated 1980 production of 30,000 pounds.

(C) Estimated trade demand (domestic and export) for the 1980-81 marketing year of 30,000 pounds.

(D) Estimated carryout, May 31, 1981, of 119,000 pounds.

(3) "Class 3" Oil (Native).

(A) Carryin from previous years 275,000 pounds.

(B) Estimated 1980 production of 1,100,000 pounds.

(C) Estimated trade demand (domestic and export) for the 1980-81 marketing year of 1,000,000 pounds.

(D) Estimated carryout, May 31, 1981, of 375,000 pounds.

(E) Estimated total allotment bases—1,400,000 pounds.

The Committee proposed that the salable quantity for the 1980-81 marketing year for each class of oil be as follows: Class 1—1,000,000 pounds; Class 2—30,000 pounds, and Class 3—1,100,000 pounds. The salable quantity means the total quantity of each class of oil which handlers may purchase from, or handle on behalf of producers during a marketing year.

Therefore, the proposal is to add a new Subpart titled "Subpart"—Allotment Percentages and Salable Quantities" and a new section under this subpart as follows:

§ 985.200 Allotment percentages and salable quantities—1980-81 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which began June 1, 1980, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 1,000,000 pounds and allotment percentage of 85 percent.

(b) "Class 2" Oil—a salable quantity of 30,000 pounds and an allotment percentage of 50 percent.

(c) "Class 3" Oil—a salable quantity of 1,100,000 pounds and an allotment percentage of 75 percent.

Dated: July 31, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80-23573 Filed 8-4-80; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1990

Biomass Energy and Alcohol Fuels Loans and Loan Guarantees

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: On June 30, 1980, the Energy Security Act (Pub. L. 96-294) was enacted. Title II of the Energy Security Act is composed of the Biomass Energy and Alcohol Fuels Act of 1980. Under Subtitle A of Title II, the Secretary of Agriculture is authorized and directed to carry out a financial assistance program for biomass energy, to designate and

inform the Congress within 30 days of enactment of the administrative entities and officials responsible for carrying out such program, and to establish within 90 days of enactment the guidelines for soliciting and receiving applications for financial assistance under the program. This rulemaking contains USDA/FmHA's proposed regulations for implementing financial assistance under this program in the form of loans and loan guarantees. Applications for loans and loan guarantees will not be accepted until these regulations are published for implementation. The proposed regulation is being published at this time to inform interested persons that comments are requested and public hearings will be held, and to alert the public of the proposed content of the program.

DATES: Written comments must be received on or before September 4, 1980.

HEARINGS:

August 25, 1980, Georgia
August 27, 1980, Iowa
August 29, 1980, Texas

REQUESTS TO SPEAK: Requests to speak at the public hearing should be submitted no later than August 20, 1980.

ADDRESSES: Written comments (five copies) should be addressed to: Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346-S, Washington, D.C. 20250, Phone: (202) 447-4057..

PUBLIC HEARINGS:

Monday, August 25, 1980, Macon Hilton, 108 First Street, Macon, Georgia;
Wednesday, August 27, 1980, Hyatt House, 6215 Fluer Drive, Des Moines, Iowa;
Friday, August 29, 1980, Holiday Inn, 6624 Avenue H, Lubbock, Texas. Oral comments can be made between 9:30 a.m. and 11:30 a.m., 2 p.m. and 5 p.m., and 7 p.m. and 9 p.m. at the above hearing locations.

REQUESTS TO SPEAK SHOULD BE ADDRESSED TO: Elizabeth Webber, Acting Director, Public Participation, Room 118-A, USDA, Washington, D.C. 20250, Phone: (202) 447-2113.

FOR FURTHER INFORMATION CONTACT: Weldon Barton, USDA, Room 226-E, Administration Building, Washington, D.C. 20250, Phone: (202) 447-2455.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant." An approved Draft Impact Analysis is available from Earle Gavett, USDA, Room 116-A, Administration Building, Washington, D.C. 20250. Howard Hjort, Director of Economics, Policy Analysis and Budget, has determined that an emergency situation exists which warrants less than a 60 day comment period on this proposed action because Pub. L. 96-294, the Energy Security Act, requires that such regulations be final on or before September 28, 1980.

I. Comment Procedures.
II. Discussion of the Proposed Regulations.
III. NEPA Requirements.

I. Comment Procedures

A. Written Comments

Interested persons are invited to submit written comments with respect to this proposed regulation to the address designated above. The outside of the envelope and documents submitted to USDA should be identified with the designation "Biomass Energy Alcohol Fuels Loans and Loan Guarantees." Five copies of all written comments and related information should be received no later than 30 days following this publication, in order to insure consideration. Any information or data considered by the person furnishing it to be confidential should be so identified and limited to one copy only. Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. USDA reserves the right to determine the confidential status of the information or data it receives and to treat it according to that determination.

B. Public Hearing

1. *Participation procedures.* Persons wishing to speak at a hearing should specify their name, address, telephone number, location of the hearing to be attended, and the time of day they prefer to appear. Such preferences will be accommodated to the extent possible. Speakers will be notified by USDA of the time they have been scheduled to speak by August 22, 1980.

2. *Conduct of Hearing:* USDA reserves the right to arrange the schedule of presentations to be heard and to establish procedures governing the conduct of hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard. If a limit is necessary, speakers will be advised in advance and permitted to submit a full statement for the record. A USDA official will be designated as presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing. A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be made available for public inspection at the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346-S, Washington, D.C. 20205, telephone 101-447-4057, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, within 5 days after the hearing. Copies of the transcript can be purchased from the reporter.

II Discussion of the Proposed Regulations

The USDA/FmHA invites public attention and comment on every aspect of this proposed regulation. For assistance in placing the overall financial assistance program in context, however, a discussion of the following major elements is provided here: (1) The price guarantee and purchase agreement authorities; (2) the priority for selection of projects with regard to the type of fuel used; (3) the proposed approach regarding new and standardized conversion technologies in project selection; (4) application processing procedures for intermediate scale projects; (5) application processing procedures for small scale projects; and (6) the relationship of this regulation to existing FmHA lending regulations and procedures.

1. Price Guarantees and Purchase Agreement Authorities

The forms of financial assistance that are provided in this regulation include only insured loans and loan guarantees, and do not include price guarantees and purchase agreements.

Subtitle A of Title II of the Energy Security Act is essentially a commercialization, rather than a technology development and piloting program. Therefore projects involving inadequately developed and pilot stage technologies will be directed to other existing programs that are designed for such purposes. The loan and loan guarantee financial assistance here proposed should prove to be adequate and workable for purposes of the Subtitle A commercialization program. The insured or guaranteed loans provided in this regulation can be combined with other existing incentives to comprise an attractive package for investors and lenders. This program, therefore, should be viable without the additional incentives that might be afforded by price guarantees and purchase agreements.

2. Type of Fuel

In addition to applying improved or new technologies, the Biomass Energy and Alcohol Fuels Act, section 217, provides that priority for financial assistance under Subtitle A of Title II shall be provided to project proposals which use a primary fuel other than

petroleum or natural gas in the production of biomass fuel.

Pursuant to the primary objective of this program to reduce the dependence of the United States on imported petroleum and natural gas by financing increased production and use of biomass energy resources, FmHA proposes to provide financial assistance to projects using fuel other than petroleum and natural gas to the maximum extent possible. We are particularly interested in receiving applications that will use coal, biomass materials, and such fuels other than petroleum and natural gas, and the regulations provide that priority will be given to such applications in funding decisions. The regulations also require that all projects use the most cost-effective primary fuel system, based upon established procedures for life cycle cost analysis (See Appendix A). Particularly with respect to small scale projects, FmHA encourages combination projects which make it feasible to use fuel other than petroleum or natural gas—such as a combination methane digester and alcohol distillery whereby the methane produced from animal residue is used as the primary fuel for the alcohol distillery.

While the statute does not exclude financial assistance for projects using petroleum or natural gas, based upon the above priority and related provisions, it should be clear to applicants that the avoidance of petroleum or natural gas as the primary fuel for the project will be a fundamental consideration in project selection.

3. New and Standardized Conversion Technologies in Project Selection

The Biomass Energy and Alcohol Fuels Act provides that priority for financial assistance under Subtitle A of Title II, and the most favorable financial terms available, shall be provided to project proposals which (in addition to use of primary fuel other than petroleum or natural gas, as discussed above) apply improved or new technologies. The duplication of technologies used by biomass energy projects receiving assistance under Subtitle A should be minimized in cases where there are a variety of available technologies. However, duplication of technologies will not preclude financial assistance to projects involving relatively standardized fermentation technologies for liquid fuel production.

With respect to alcohol fuels projects, therefore, the Farmers Home Administration will be interested in reciving strong proposals which evidence the resources, including management capability, necessary for successful operation and the use of newer technologies. Priority will be given to non-scarce fuels and new technologies. We will welcome proposals involving the colocation of alcohol plants with corn milling plants, grain handling facilities, cattle feedlots, electrical generating plants, or other such combinations that can improve the economics of the project and provide experienced management resources. We will also welcome projects involving the acquisition for retrofit or conversion of existing plant or equipment to alcohol production, where it is demonstrated that this will meet priorities for other than scarce fuels and will contribute to the economic viability of the enterprise and the speed with which it can be brought on production line.

An effort will be made to encourage different types of fermentable feedstocks so that the financial assistance program as a whole reflects a variety of feedstock materials that can be converted with available technology. Also, since in the case of small scale projects a variety of technologies is not generally available, assistance to small-scale non-alcohol projects (such as methane) will be provided without regard to the duplication of technologies.

The statute authorizes financial assistance for projects both that convert biomass materials into a refined liquid, gaseous or solid fuel and that convert equipment so that such equipment can directly combust wood or other unrefined biomass into energy for industrial purposes. Examples of projects eligible for financial assistance that would produce non-liquid fuels include projects to convert animal residues into methane gas and to densify wood into pellets or other compact forms.

This area presents a special problem of implementation concerning the proper scope of financial assistance in terms of project type. Although the statute provides that the duplication of similar technologies in the non-liquid fuels area should be minimized in the overall financial assistance program, many of the newer gasification and liquefaction technologies in this area are not yet ready for commercial scale application. FmHA wishes to accommodate to the extent practicable emerging technologies as they become ready for adoption on a commercial scale.

These proposed regulations adhere closely to the statutory language with respect to the scope and types of non-liquid fuel biomass energy projects that are potentially eligible under this financial assistance program. We welcome public comment on ways to define more precisely the range and parameters of non-liquid fuel biomass energy projects for which financial assistance should be made available under this program.

The ethanol equivalency of non-liquid fuels required by section 212(g) of the Act is being announced in the Federal Register.

4. Application Processing Procedures for Intermediate Scale Projects

These regulations propose the solicitation and processing of applications for intermediate scale biomass energy projects (that is, those involving more than 1 million and less than 15 million gallons or Btu equivalency of production volume) with the following procedure: a simultaneous solicitation of proposals with a specified closing date for the receipt of applications, followed within 120 days of receipt of applications by the comparative evaluation and ranking of proposals on a nationwide basis according to specified selection criteria and the awarding of conditional approvals to successful applicants. There would be additional simultaneous solicitations during specified periods subsequent to the initial simultaneous solicitation.

For this proposed procedure to be implemented, the data requirements, priorities for selection, and other information and demonstrated actions that are required of applicants under the simultaneous solicitation will be elaborated in a separate notice of solicitation which will be issued within 30 days of the effective date of these regulations. Comment is requested on the possible contents of the notice of solicitation.

The basic premise on which this simultaneous solicitation procedure is proposed is that the economic and technical situation with regard to alcohol fuels and certain other biomass energy projects using relatively standardized technologies is now essentially favorable, that in the case of many such projects a loan guarantee can provide the last incremental incentive that is necessary to proceed successfully with plant construction and operation, and that such a procedure will therefore result in the expeditious processing of applications for projects which can be financially self sustaining.

It is assumed that, by the time that the notice of solicitation is issued, a great deal of planning and action on their projects will already have been undertaken by most serious potential applicants. The notice of solicitation will provide a fixed time period for advice

and consultation between potential applicants and FmHA, prior to formal application. For the simultaneous solicitation procedure to function successfully, it is vital that project proposals be carefully planned, defined, and *based upon actions already taken by the applicant* to make consideration for conditional approval feasible without further negotiations between FmHA and the applicant once the application is formalized. An application would need to be complete to a degree that approval of the application could be made on the record, conditional only on successful construction, start-up performance, and related requirements.

Examples of elements of an application under a simultaneous solicitation would include the following: (1) the lender would be secured in advance, and the application jointly submitted by the project sponsor and the lender; (2) the equity contribution to the project would be arranged in advance, and the application would stipulate the source and amount of both cash and non-cash equity that is available if and when a conditional approval is awarded; (3) firm arrangements for satisfying the technical requirements of the projects would be in place; and (4) management resources and capabilities for the project are clearly demonstrated.

With respect to equity, these regulations provide for priority to be given to applications to the extent that cash equity (in addition to the minimum equity requirements) is injected into the project. It is particularly important that a substantial percentage of total project cost be met with cash equity, since the Biomass Energy and Alcohol Fuels Act does not provide for the loan or loan guarantee to cover working capital.

It should be emphasized that actions already taken and evidenced in the formal application by the applicant concerning the lender, equity, technical design and engineering, and other aspects of the project will be highly important in decisions on conditional approval under the simultaneous solicitation procedure. In this regard, one basis for rejection of proposals will be inadequate development of the project proposal, and it is not inherent in the simultaneous solicitation procedure that any particular number of projects or amount of financial assistance will be awarded as a result of a simultaneous solicitation. The results will depend upon the quality of the individual project applications that are received.

Alternative Procedures. While the simultaneous solicitation procedure is proposed in this regulation, FmHA recognizes the possibility that the premises on which such procedure is based might not pertain to the extent necessary to adopt the procedure as proposed.

An available alternative to the simultaneous solicitation is the continuous procedure, which is provided in these regulations for small scale projects. The continuous procedure could be adopted exclusively by FmHA for the processing of applications for all sizes of projects, provided that it meets the statutory requirement that it result in the processing of applications more expeditiously than the simultaneous solicitation procedure and is otherwise preferable.

We are particularly interested in receiving comment on both the simultaneous solicitation procedure *per se*, and on the continuous procedure as an alternative to the simultaneous solicitation procedure for the processing of applications for intermediate scale biomass energy projects.

5. Application Processing Procedures for Small Scale Projects

In the case of small scale projects involving an annual production capacity of 1 million gallons or less of ethanol or its energy equivalent in other forms of biomass fuel, these regulations provide for the continuous solicitation and processing of applications beginning with the effective date of these regulations, running concurrently with the simultaneous solicitation of intermediate scale projects, and continuing thereafter. This continuous procedure involves the announcement with publication of these regulations in final form that funding is available to eligible applicants under the specified conditions but without a specific closing date on applications, and the consideration of applications on a sequential basis for approval whenever the application reaches a stage appropriate for conditional or final approval. This procedure would be followed for small scale projects, whether an insured loan or loan guarantee is involved.

The basic premise for adopting such procedures for small-scale projects is that applications can be processed more expeditiously on a localized basis through this procedure. This also complies with the statutory directive to provide for categories of biomass energy projects according to size and for the simplest procedures in the case of small producers.

6. Relationship to Existing FmHA Lending Regulations

These regulations are being separately promulgated in order to carry out the new financial assistance program authorized in the Biomass Energy and Alcohol Fuels Act of 1980. In addition to the various unique substantive features of this biomass energy program compared with other existing lending programs administered by FmHA, the Biomass Energy and Alcohol Fuels Act places a special requirement on this program that applications be processed expeditiously, including a specific time limitation of 120 days for decisions on applications received. This reflects the public interest in rapid expansion of alcohol fuel production from biomass materials, in order to expand the nation's liquid fuel supplies from domestic sources in the short term. These regulations attempt to expedite the processing of applications in basically two ways: (1) Adopting a simultaneous solicitation procedure for the initial processing of applications for intermediate scale biomass energy projects; and (2) prescribing a continuous procedure for use otherwise in the processing of applications.

To the extent that existing loan processing procedures are not inconsistent with the Biomass Energy and Alcohol Fuels Act of 1980, these regulations, the notice of solicitation proposed to be issued for the simultaneous solicitation, and related guidelines for this program, FmHA's intention is to adhere to the maximum extent practicable to the existing FmHA regulations, procedures and forms applicable to other guarantee and insured loan programs adminstered by the Agency. For instance, in the handling of biomass energy projects after a loan or loan guarantee is conditionally approved, we expect to deviate minimally from the loan servicing, default, liquidation, and other procedures followed with other programs. Also, for the assessment of technical feasibility as outlined in Appendix A to § 1990.105 of these regulations, we expect that technical feasibility considerations will be integrated with financial, management, and other feasiblity considerations based upon the Community Facilities Program and other lending programs of the FmHA.

In the interest of publishing these proposed regulations at the earliest feasible time, and of securing public comment on this aspect of the regulations, these proposed regulations embody the pragmatic approach of tentatively delineating the appropriate existing regulations or procedures to be followed, with the intention of refining such delineation in the final regulations and the notice of solicitation for

simultaneous solicitation purposes. We are particularly interested in comments and suggestions from the public on how this can be best accomplished.

III. NEPA Requirements

This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act, Pub. L. 91–190, an Environmental Impact Statement is not required. Each application for financial assistance will be assessed to determine the environmental impacts.

Issued in Washington, D.C., July 31, 1980.

Bob Bergland,

Secretary.

It is proposed to add a new Part 1990 to Title 7 of the Code of Federal Regulations to read as follows:

Part 1990—Biomass Energy and Alcohol Fules Loans and Guarantees.

Subpart A—General Provisions

Subpart B—Biomass Energy Project Insured Loans

Subpart C—Biomass Energy Project Loan Guarantees.

Authority: Section 212, Pub. L. 96–294, 94 Stat. 687, 42 U.S.C. 8812.

Subpart A—General Provisions

§ 1990.1 Introduction.

This Subpart A contains the general regulations and prescribed forms which are applicable to the Farmers Home Administration programs for financial assistance to biomass energy and alcohol fuels projects pursuant to the Biomass Energy and Alcohol Fuels Act of 1980 (Pub. L. 96–294). Additional regulations for these programs are found in the various subparts of Part 190. These additional regulations apply to lenders, holders, borrowers and other parties involved in making, insuring, guaranteeing, holding, servicing or liquidating loans under Title II. "Financial Assistance" for purpose of this regulation shall mean the forms of financial assistance described in Subpart B (Insured Loans) and Subpart C (Guaranteed loans).

§ 1990.2 Program objectives.

The objectives of the financial assistance programs in Part 1990 are to reduce the dependence of the United States on imported petroleum and natural gas by financing increased production and use of biomass energy resources. Such increased production and use will be on an economically and environmentally feasible basis that does not impair the nation's ability to produce food and fiber.

§ 1990.3 Definitions.

(a) For purposes of this Part, the following general definitions apply. Additional definitions may be found in the Subparts relating to the particular type of financial assistance involved.

(1) The "Act" means the Biomass Energy and Alcohol Fuels Act of 1980 (Pub. L. 96–294, Title II.)

(2) "Alcohol" means methanol, ethanol and any other alcohol which is produced from biomass which is suitable for use by itself or in combination with other substances as a substitute for petroleum or petrochemical feedstocks in nonfuel applications. The term does not include alcohol for beverage purposes.

(3) "Applicant" means any person who has filed an application for financial assistance under this Part with the appropriate FmHA representative designated in this Part.

(4) "Application" means a proposal for financial assistance in the form and containing the information required by this Part.

(5) "Biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues and animal waste; but not municipal wastes or aquatic plants.

(6) "Biomass energy" means biomass fuel which consists of any gaseous, liquid, or solid fuel produced by conversion of biomass; or energy or stream derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat.

(7) "Biomass energy project" or "project" means any facility (or portion of a facility) located in the United States which is primarily for the production of biomass fuel and byproducts; or the combustion of biomass fuel for the purpose of generating industrial process heat, mechanical power, or electricity (including cogeneration).

(8) "Borrower" means an applicant who has a loan under this Part and includes all parties liable for the loan.

(9) "Cogeneration" means the combined generation by any facility of electricity or mechanical power and steam or other forms of useful energy (such as heat) which are used for industrial, commercial, heating (including district heating), or cooling purposes.

(10) "Construction" means (i) the construction or acquisition of any biomass energy project; (ii) the conversion of any facility in a biomass energy project; or (iii) the expansion or improvement of any biomass energy project which increases the capacity or efficiency of that facility to produce biomass energy. The term "construction" includes the acquisition of necessary equipment and machinery;

the acquisition of necessary land and its improvements; and, capital costs necessary to meet environmental standards.

Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition.

(11) "Continuous solicitation" means the method of receiving, evaluating, and processing applications for financial assistance under this Part by which applicants may file their applications at any time after the effective date of this Part and the evaluation and other FmHA processing will be conducted in accordance with § 1990.105.

(12) "Cooperative" means any agricultural association, as that term is defined in section 15(a) of the Act of June 15, 1929, as amended (46 Stat. 18; 12 U.S.C. 1141j), commonly known as the Agricultural Marketing Act. As used in Section 15(a) of that Act, the term "farmers" means mass producers of agricultural commodities and other agricultural products, including among others, ranchers, dairy men, planters and nut and fruit growers.

(13) "Federal agency" means any Executive agency, as defined in Section 105 of title 5, United States Code.

(14) "Guarantee fee" means a one-time charge made by FmHA to recover costs for processing guaranty applications, for monitoring guaranteed loans, for making payment of principal or interest assistance, for probable guaranteed loan losses, and for necessary administrative expenses.

(15) "Holder" means that person (other than the lender) lawfully owning all or any part of the guaranteed debt.

(16) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(17) "Intermediate scale biomass energy project" means a biomass energy project with an anticipated annual production capacity of more than 1 million gallons of ethanol per year (of its energy equivalent of other forms of biomass energy) but less than 15 million gallons of ethanol per year (or its energy equivalent of other forms of biomass energy).

(18) "Lender" shall have the meaning given in section 1980.6(a)(12) and the lenders' eligibility requirements of section 1980.13 shall apply to this Part.

(19) "Person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any state or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization.

(20) A "primary fuel" is the predominant fuel used by the biomass energy project and does not include incidental use of petroleum or natural gas, for example, for flame stabilization.

(21) "Simultaneous solicitation" means the method of receiving, evaluating, and processing applications for financial assistance under this Part by which applicants may file their applications only on or before a fixed date in accordance with a Federal Register notice, at which time all applications so received will be evaluated and processed together in accordance with § 1990.205.

(22) "Small scale biomass energy project" means a biomass energy project with an anticipated annual production capacity of not more than 1,000,000 gallons of ethanol per year or its energy equivalent of other forms of biomass energy.

(23) "Solar energy resources" for this purpose includes wood, bagasse, corn stover and other biomass, among others. "Petroleum or natural gas" as used here does not include fuels which are not commercially marketable by reason of quality, quantity, or distance from existing transportation systems.

(24) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(25) "Assignment Guarantee Agreement" Conditional Commitment for Guarantee", "Finance Office," "FmHA," "Guaranteed Loan" Insured Loan", "Lenders Agreement," "Note," "Transfer and Assumption" and "Abbreviations" shall have the meanings given in § 1980.6.

(26) "Letter of Conditions" shall have the meaning given in § 1980.402.

1990.4 Case and identification numbers.

Applications will be assigned a case number for identification in accordance with the provisions of § 1980.12.

§ 1990.5 Receiving and processing applications.

(1) *Priority.* (1) Applications will be considered and acted upon in the order received except as a different order may be required by specific procedures in the applicable Subpart. In all cases, priority in the selection of applications for funding shall be given to a biomass energy project that:

(i) Uses a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy resources, solar energy resources, waste heat, or coal; or

(ii) Applies new technologies which expand the possible feedstocks, produces new forms of biomass energy, or produces biomass fuel using improved or new technologies; or

(iii) Includes amounts of cash equity in addition to the minimum equity requirements provided elsewhere in these regulations.

(2) A project which does not use a priority-qualifying fuel or technology may, nevertheless, be considered for financial assistance under this Part without priority.

(b) *Ineligible projects.* (1) Projects which use aquatic plants or municipal waste as feedstock are ineligible for financial assistance under this Part since they do not meet the definition of biomass.

(2) Biomass energy projects which will have an anticipated annual production capacity of 15 million gallons or more of ethanol (or the energy equivalent of other forms of biomass energy) are ineligible for financial assistance under this Part except that, with the concurrence of the Department of Energy in accordance with § 1990.6, they may be considered for financial assistance under this Part if they will use wood or wood wastes or residues or are owned and operated by a cooperative.

(3) Biomass energy projects which propose to produce beverage alcohol will be ineligible for financial assistance under this Part.

(4) No loan shall be insured or guaranteed if the income from such loan is excluded from gross income for purposes of Chapter 1 of the Internal Revenue Code of 1954.

(c) *Continuous or Simultaneous Solicitation.* FmHA procedures permit alternative methods for receiving and processing applications for biomass energy project financial assistance. The respective Subparts will specify such applicable procedures, including whether applications will be received and processed continuously (continuous solicitation) or will be received by one designated date and considered and

acted on together (simultaneous solicitaion).

(d) *Evaluation Criteria.* Applications which meet eligibility requirements will be evaluated in accordance with criteria stated in applicable Subparts of this Part.

(e) *Application and Procedures.* (1) Financial assistance will not be provided for any biomass energy project except upon the basis of an application submitted by the applicant, in such form and under such procedures as are prescribed in the respective Subparts of this Part, as approved by FmHA in accordance with such procedures.

(2) The application shall include information regarding the construction costs of the biomass energy project and estimates of operating costs and income, including the sale of any by-products.

(3) Each applicant shall provide access at reasonable times to such other information and such assurances as FmHA may require.

(4) As a condition precedent to receiving financial assistance, applicants must consent to such examinations and reports regarding the biomass energy project as FmHA may require.

(5) With respect to each biomass energy project for which financial assistance is provided, the applicant will furnish such reports and records relating to the project as FmHA determines to be necessary. Such records shall be kept in accordance with §§ 1823.282–1823.289 and to the maximum extent practicable records kept for regulatory and other purposes may be used for purposes of this Part.

(f) *Notice of Denial with Reasons.* (1) If any application for financial assistance for a biomass energy project is denied, the applicant will be provided written notice thereof with the reasons for the disapproval.

(2) Applicants may modify and resubmit applications following such denial.

(g) *Appeals.* Procedures in §§ 1990.51–53 shall apply to review of FmHA actions or determinations under this Part.

§§ 1990.6–1990.10 [Reserved]

§ 1990.11 Eligibility—Positive energy balance.

(a) The Btu content of motor fuels to be used in the facility involved to produce the biomass energy must not exceed the Btu content of the biomass fuel produced in the facility (positive energy balance).

(b) In determining the existence of a Positive Energy Balance, account will be taken of any displacement of motor fuel or other petroleum products which the applicant has demonstrated would result from the use of the biomass fuel produced in the facility involved. The applicant has the burden of proving such displacement.

(c) Displacement for this purpose would include displacement occurring after the fuel is produced as a result of marketing operations or manner of use of biomass fuel as through octane enhancement. This would allow consideration of decreased consumption of fuel by a refinery because ethanol blending reduces the severity of reforming to provide gasoline with sufficient octane level for marketing.

(d) The term "motor fuel" means gasoline, kerosene, and middle distillates (including diesel fuel).

(e) The Positive Energy Balance shall be determined by considering only the project for which financial assistance is requested.

§ 1990.12 Eligibility—Protein use.

Financial assistance will not be provided for a biomass energy project if the process used by the project will not extract the protein content of the feedstock for utilization as food or feed for readily available markets in any case in which to do so would be technically and economically practicable.

§ 1990.13 Eligibility—Availability of feedstock.

(a) Financial assistance will not be provided for a biomass energy project unless necessary feedstock are available and may reasonably be expected to continue to be available in the future.

(b) For biomass energy projects using wood, or wood wastes or residues from the National Forest System, the determination of feedstock availability shall take into account current levels of use by then existing facilities.

§ 1990.14 Eligibility—Amount necessary for financial assistance.

(a) The amount of financial assistance provided for a biomass energy project will not be greater than is necessary to achieve the purposes of the Act, including maximizing the production of biomass energy.

(b) In making this determination, other types of financial assistance requested and awarded for the project shall be taken into account.

§ 1990.15 Eligibility—Risk.

(a) Any person receiving financial assistance for a biomass energy project must bear a reasonable degree of risk in the construction and operation of the project.

(b) The respective Subparts of this Part and the prescribed loan documents and other agreement forms will specify the manner in which such reasonable degree of risk shall be borne.

§ 1990.16 Eligibility—Competition.

Following evaluation of the markets involved, due consideration will be given to promoting competition, in providing financial assistance for biomass energy projects.

§ 1990.17 Eligibility—Byproduct values.

In determining the amount of financial assistance to be provided to a biomass energy project, the potential value of byproducts, if any, and the costs attributable to their production, will be considered.

§§ 1990.18–1990.20 [Reserved]

§ 1990.21 Department of Energy consultation or concurrence.

(a) Section 212 of the Act requires consultation with the Department of Energy before certain applications for biomass energy project financial assistance may be approved and, in addition, for certain such applications the concurrence of the Department of Energy. The procedures for such consultation and concurrence will be governed by a Memorandum of Understanding between the Secretary of Agriculture and the Secretary of Energy, which will be published in the Federal Register on or before the effective date of this part.

§ 1990.22 Security, maturity, repayment schedules and other terms.

Applicable Subparts of this Part contain the regulations for security, maturity, repayment schedules and other terms of biomass energy project loans, which the Act requires to be reasonable and meet standards sufficient to protect the financial interests of the United States.

§ 1990.23 Compliance with statutes.

(a) *Environmental Impact Assessments and Statements.* Procedures for FmHA compliance with the National Environmental Policy Act of 1969 stated in § 1980.40 and Subpart G of Part 1901 will apply to this Part, to the extent not modified in an applicable Subpart.

(b) *Equal Opportunity and Non-discrimination Requirements.* Procedures for compliance with the Equal Credit Opportunity Act of 1974, Executive Order 11246, Title VI of the Civil Rights Act of 1964 and other civil rights laws stated in § 1980.41 and Subpart E of Part 1901 will apply to this

Part, to the extent not modified in an applicable Subpart.

(c) *Flood or Mudslide Hazard Area Precautions.* Procedures for projects subject to flood or mudslide hazards stated in § 1980.42 and § 1943.23 will apply to this Part, to the extent not modified in an applicable Subpart.

(d) *Clean Air Act and Water Pollution Control Act Requirements.* Procedures for compliance with the Clean Air Act (42 U.S.C. § 1857) and the Federal Water Pollution Control Act (33 U.S.C. §1318) stated in §1980.43 will apply to this Part, to the extent not modified in an applicable Subpart.

(e) *National Historic Preservation Act.* Procedures for compliance with the National Historic Preservation Act of 1966 stated in § 1980.44 and Subpart F of Part 1901 will apply to this Part, to the extent not modified by an applicable Subpart.

(f) *Bureau of Alcohol, Tobacco, and Firearms Permit.* Procedures for compliance with permit requirements of the Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms stated in § 1943.23(g) (45 FR 27912, April 25, 1980) will apply to this Part, to the extent not modified by an applicable Subpart.

(g) *Other Federal, State and local requirements.* In addition to the specific requirements of this regulation, proposals for facilities financed in whole or in part with an FmHA loan or guarantee will be coordinated with all appropriate Federal, State and local agencies in accordance with the following:

(1) Compliance with special laws and regulations. Applicants and/or lenders will be required to comply with any Federal, State or local laws, regulatory commission rules, ordinances, and regulations which are presently in existence or may be later adopted which affect the project including, but not limited to:

(i) Organization and authority to design, construct, develop, operate and/or maintain the proposed facilities;

(ii) Borrowing money, giving security therefor, and raising revenues for the repayment thereof;

(iii) Land use zoning;

(iv) Health, safety, and sanitation standards;

(v) Protection of the environment and consumer affairs.

(2) In compliance. The applicant and/or lender will be in compliance with this section effective with the date of issuance of the Loan Note or Guarantee.

§ 1990.24 Patents and proprietary rights.

(a) Patents and other proprietary rights accruing to the borrower and resulting from the project will remain with the borrower, except that such rights shall be, in the case of default, treated as project assets in accordance with terms and conditions in the loan or guarantee agreement.

(b) The loan or guarantee agreement may provide that patents or other proprietary intellectual property rights utilized in or resulting from the project, which are owned or controlled by the borrower, shall be made available to other domestic parties upon reasonable terms and conditions which protect the confidentiality of information, if such action is determined by the Secretary to be in the public interest.

§ 1990.25 Trade secrets.

Subject to requirements of the Freedom of Information Act, other laws and these regulations, trade secrets, commercial and financial information and data (including maps) which the borrower makes available to the Secretary during the preliminary discussion or at any other time throughout the duration of the project on a privileged or confidential basis, will be so treated and will not be publicly disclosed without the prior written approval of the borrower. In order to assist in carrying out this provision, information deemed by the borrower or lender to fall within one of the foregoing categories shall be identified and appropriately marked by the borrower or the lender.

§§ 1990.26–1990.27 [Reserved]

§ 1990.28 Access to records.

FmHA representatives shall have access at reasonable times to all records relating to biomass energy projects for the purpose of insuring compliance with the terms and conditions upon which financial assistance is provided. To the maximum extent practicable, records and information required for regulatory and other purposes will be used also for purposes of this Part.

§ 1990.29 Full faith and credit.

All contracts and instruments for providing financial assistance under this Part shall be general obligations of the United States, backed by its full faith and credit.

§ 1990.30 Incontestability.

(a) Subject to the conditions of any contract for financial assistance under this Part, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(b) Any loan guarantee under this Part shall not be terminated, canceled or otherwise revoked, except in accordance with its terms and shall be conclusive evidence that such guarantee complies fully with the Act and of the approval and legality of the principal amount, interest rate and all other terms of the securities, obligations, or loans of the guarantee.

§ 1990.31 Fees.

Fees, if any, charged for financial assistance provided under this Part shall be as stated in the applicable Subparts of this Part.

§ 1990.32 Loan servicing, default, and liquidation.

Loan servicing, default and liquidation regulations relating to financial assistance provided under this Part are stated in the applicable Subparts of this Part.

§ 1990.33 Assistance period.

No financial assistance under this Part may be committed or entered into after September 30, 1984, but contracts in existence on that date shall remain in effect for the period specified therein.

Subpart B—Biomass Energy Project Insured Loans

§ 1990.101 Eligibility.

In addition to the eligibility requirements stated in Subpart A applicable generally to all financial assistance under this Part, applications for biomass energy project insured loans must meet the following requirements:

(a) *Credit elsewhere.* (1) The loan applicant shall certify and FmHA shall determine that the applicant is unable, without such loan, to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing and cooperative rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

(2) The procedure for determining and documenting the unavailability of credit elsewhere which is stated in § 1943.56(a)–(d) shall apply to biomass energy project insured loan applications under this Subpart B.

(b) *Small-scale biomass energy projects.* Only small scale biomass energy projects, as defined in § 1990.3(a)(22), are eligible for insured loans under this Subpart B.

§ 1990.102 Loan purposes.

(a) An insured loan may be made for the construction of small-scale biomass energy projects. Construction, as defined in § 1990.3(a)(10) includes acquisition, conversion and expansion of existing facilities but not the

acquisition of facilities operated as a biomass energy project before the acquisition.

(b) Construction costs for a facility which produces biomass energy other than biomass fuel include only costs related to constructing or converting boilers, on-site machinery and handling equipment and other equipment which is necessary for the use of biomass as a fuel.

(c) With respect to projects producing biomass fuel and byproducts, construction costs may include portions of such facility related to the production of such byproducts in accordance with § 1990.17.

§ 1990.103 Loan amount limitations; Equity.

(a) No insured loan under this Subpart B may exceed $1 million.

(b) No insured loan under this Subpart B may exceed 90 percent of the total estimated cost of construction of the project.

(c) The applicant will be required to contribute sufficient tangible assets to provide reasonable assurance of a successful project. A minimum of 10 percent equity will be required on the applicant's balance sheet, at the time of loan closing for insured loans. To the extent that amount of cash in addition to the minimum equity requirement are provided by the applicant, priority consideration will be given to the application.

§ 1990.104 Subsequent loans.

If the total estimated costs of construction of a small-scale biomass energy project after an insured loan is made exceed the total estimated costs of construction initially determined by FmHA, an additional insured loan may be made for such additional costs of the project in an amount not to exceed 10 percent of the total costs of construction initially estimated.

§ 1990.105 Receiving and processing applications.

(a) *Organization for Administrating Program.*

(1) The small-scale biomass energy project insured loan program is administered by the FmHA Administrator through a State Director, serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities, unless otherwise stated.

(2) Administrative provisions establishing the internal duties, responsibilities and procedures for carrying out the program, including the establishment within FmHA of an Office of Renewable Resources and its relationship to the overall biomass loan and loan guarantee program and to FmHA State, District and County offices, will be integrated with or published as appendices to this or other Subparts of this Part.

(b) *Continuous Solicitation of Applications.* Applications for small-scale biomass energy project insured loans will be received and processed on a continuous solicitation rather than on a simultaneous solicitation basis (See § 1990.5(c)).

(c) *Preapplication.*

(1) Applicants may file preapplications described in paragraph (3) of this Subsection if they desire an expression of FmHA's preliminary views and advice prior to assembling the complete application or they may present the complete application in one package, including the material required in paragraphs (c)(3) and (d)(1) of this section.

(2) A preapplication will be in the form of a letter and will not commence the running of the 120 days statutory period for processing applications.

(3) Preapplication letters shall include:

(i) Applicant's name and address, telephone number and contact person.

(ii) Amount of loan request.

(iii) Brief description of the project and process.

(iv) Amount of applicant's equity.

(v) Anticipated loan maturity.

(vi) Type and availability of feedstocks.

(vii) Record of any pending or final regulatory or legal (civil or criminal) action against the applicant, principal stockholders, officers and directors.

(viii) A current balance sheet and latest profit and loss statement, and financial statements of existing businesses for the last 3 years.

(ix) A detailed projection of gross revenue, net earnings, and cash flow statements for 3 years including assumptions upon which such forecasts are based.

(x) Sales projections indicating the percent of the local market the project expects to obtain.

(4) If preapplication information indicates the project will not meet FmHA's minimum credit standards for a sound loan, is ineligible, does not have sufficient priority, or that funds or loan authority are not available for the project, FmHA will so inform the applicant. The applicant will be notified in writing with reasons for the decision indicated. If it appears that the project is eligible, has sufficient priority, is economically feasible and loan authority is available, FmHA will inform the applicant in writing and request that they complete the application.

(d) *Applications.* (1) Applications will consist of:

(i) Form FmHA "Application for Loan."

(ii) Form FmHA "Statement of Debts and Collateral."

(iii) Form FmHA "Applicant's Environmental Impact Evaluation."

(iv) Architectural or engineering plans, if applicable.

(v) Project cost estimates set forth in Form FmHA 424–1 Development Plan.

(vi) Appraisal reports.

(vii) For existing businesses, a pro forma balance sheet at start-up and for at least 3 additional projected years indicating the necessary start-up capital, operating capital and short-term credit based on financial statements for the last 3 years, or more (if available); and projected cash flow and earning statements for at least 3 years supported by a list of assumptions showing the basis for the projections. If debt refinancing is requested, a debt schedule is to be prepared (correlated to the latest balance sheets) reflecting the debts to be refinanced including the name of the creditor, the original amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status, and collateral that secured such loans.

(viii) For new businesses, a pro forma balance sheet at start-up and for the next 3 years, projected cash flow (monthly first year, quarterly for 2 additional years) and projected earnings statements for 3 years supported by a list of assumptions showing the basis for the projections.

(ix) Any credit reports obtained by FmHA.

(x) Form FmHA 400–1, if construction costing more than $10,000 is involved.

(xi) Copies of building permits, if applicable, and any necessary certifications and recommendations of appropriate regulatory or other agency having jurisdiction over the project including any pollution control agency.

(xii) Acknowledgement of receipt of permit application to Bureau of Alcohol, Tobacco and Firearms, Department of Treasury.

(xiii) Feasibility studies of the technical and economic aspects of the project in form and substance conforming to § 1990.18 and appendices thereto.

(e) *FmHA Evaluation of Application.* (1) FmHA will evaluate the application. FmHA will make a determination whether the borrower is eligible, the proposed loan is for an eligible purpose, and there is reasonable assurance of repayment ability, sufficient collateral,

and sufficient equity. If FmHA determines it is unable to make the loan, the applicant will be informed in writing. Such notification will include the reasons for denial.

(2) If FmHA determines it is able to make the loan, the loan approval official will prepare a letter of conditions listing all requirements which the applicant must agree to meet within a specified time before the application will receive further consideration and any loan approved. All letters of condition will be addressed to the applicant, signed by the County Supervisor, and mailed or handed to the appropriate applicant representatives by the County Supervisor.

Requirements listed in the letter will include those relative to:

(i) Maximum amount of loan which may be considered.

(ii) Repayment schedule.

(iii) Contributions required of applicant users or members.

(iv) Security requirements.

(v) Title to property.

(vi) Organization.

(vii) Business operations.

(viii) Insurance and bonding.

(ix) Construction contract documents and bidding.

(x) Accounts, records and audit reports required.

(xi) Other requirements which must be met.

(f) *Loan Processing.* Dockets for insured loans for small-scale biomass energy projects will be processed in a manner similar to that for loans covered by § 1823.267 (c).

§ 1990.106. Evaluation criteria.

(a) In addition to the criteria and eligibility requirements stated in Subpart A (including § 1990.5 (2) (b) and §§ 1990.11–18) and in other sections of this Subpart B including §§ 1990.101–103, insured loans for small-scale biomass energy projects may be made only if:

(1) There is reasonable assurance of repayment of the insured loan from the project's income (including by-product income) received by the borrower.

(2) The project is technically feasible according to the technical requirements in Subpart A § 1990.18 and appendices thereto and there is acceptable evidence that the applicant will initiate and complete the project in a timely and efficient manner as reflected in the development plan.

§§ 1990.107–1990.109 [Reserved]

§ 1990.110 Maturity and repayment schedules.

(a) Repayment Period. Each loan will be scheduled for repayment over a period not to exceed the lesser of (1) 30 years from the date of the note, or (2) the expected average useful life of the major physical assets essential to the project.

(b) Repayment schedules will be in accordance with projected operations. Amortized installments, either monthly, quarterly or semi-annually, will be required and may include deferred payments. All collections will be applied to interest until such interest has been paid. Also, when a full installment is not paid when due, the payment made will be applied first to accrued interest.

(c) Deferred payments. Principal or interest payments, or both, may be deferred in whole or in part for a period not to exceed the end of the second full calendar year after the estimated date of loan closing. If for any reason it appears necessary to permit a longer period of deferment, the State Director may authorize such deferment with the prior approval of the National Office.

§ 1990.111 Interest rate.

Insured loans for small-scale biomass energy projects shall bear interest at rates determined by the Secretary of Agriculture, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed one per centum, as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of one per centum. The rate will be announced periodically and will be the rate in effect at the time the loan is approved or at the time the loan is closed, whichever rate is lower.

§ 1990.112 Security.

(a) All insured loans for small-scale biomass energy projects will be secured in a manner which will adequately protect the interest of the Government until the loan is repaid.

(b) A lien will be taken on the interest of the applicant in all land easements, rights-of-way, water rights, and similar property rights used or to be used, in connection with the project whether owned at the time the loan is approved or acquired with loan funds. Additional security may be required by FmHA. In unusual circumstances where it is not feasible to obtain a lien on such land rights (such as land rights obtained from Federal or local governmental agencies and from railroads), and the State Director determined that the interest of the FmHA otherwise is adequately secured, the lien requirement may be omitted as to such land rights. In those instances where such property rights have not been legally perfected, it will be the responsibility of the applicant to obtain and record such releases, consents, subordinations to such property rights from holders of outstanding liens, or other instruments, as it determines, with the advice of its attorney, are necessary for the construction, operation, and maintenance of the facility. When easements only are obtainable on sites for structures, releases, consents, or subordinations may be required by the FmHA. Provision will be made for the applicant to pay from its own funds for any excess installation costs resulting from a failure to obtain adequate land, rights-of-way, or subordination.

(1) In those cases where a lien on the leasehold interest of the borrower in a leasehold from a private party will represent the principal security for the loan, unless prior written approval from the National Office for a different arrangement is obtained, the lease must provide for:

(i) An unexpired term at least 50 percent longer than the repayment period of the loan.

(ii) The borrower's interest will not be subject to summary forfeiture or cancellation.

(iii) The right of FmHA to foreclose its security; to bid at foreclosure sales; to accept voluntary conveyance of the security in lieu of foreclosure; and should the leasehold be acquired by FmHA through foreclosure, voluntary conveyance, abandonment, or otherwise, to occupy the property, sublet it, or to sell it for cash or credit.

(iv) The right of the borrower to sell or otherwise transfer the leasehold.

(v) Sufficient advance notice (at least 60 days) to FmHA of the lessor's intentions to cancel, terminate, or foreclose upon the lease, so as to permit FmHA to take appropriate action.

(c) Where the project is located on a farm and whether or not the project products will be used on the farm, a lien need not be taken on the entire farm when it is not needed to secure the loan. When the security is so located that a legal right-of-way to the property is not available, an easement or agreement will be obtained providing for right of ingress and egress.

(d) The borrower will provide evidence of title to security property satisfactory to FmHA and in accordance with the provisions of § 1823.268(a).

§ 1990.113 Loan closing and servicing.

(a) Small-scale biomass energy project insured loans will be closed in accordance with § 1823.270.

(b) Small-scale biomass energy project insured loans will be serviced in

a manner to accomplish the loan objectives and protect the Government's financial interest. To accomplish these purposes, the security will be serviced in accordance with the security instruments and related agreements, including any authorized modifications, provided the borrower has reasonable prospects of accomplishing the loan objectives, properly maintains and accounts for the security, and otherwise meets the loan obligation, including loan repayment, in a satisfactory manner. When the above conditions are not satisfied, or it is determined that the loans must be liquidated for other reasons, and sufficient legal grounds for liquidation exist, prompt action will be taken to liquidate the security to protect the Government's financial interest.

(c) Each borrower is responsible for repaying principal and interest on a timely basis pursuant to the loan documents, paying real estate taxes, providing adequate property insurance, maintaining, protecting, and accounting to the FmHA for all security, and complying with other loan requirements.

(d) The County Supervisor is responsible for informing each borrower of responsibilities in connection with the loan, seeing that the security is being properly maintained and accounted for, and for servicing the security in accordance with this Subpart. When a borrower fails to maintain, protect, and account for the security as required by the loan documents, or makes unauthorized disposition or use of any security, prompt action will be instituted to protect the FmHA's interest. The County Supervisor will obtain any legal advice he needs from the Office of the General Counsel (OGC) through the State Director. In cases that have been referred to the OGC for legal action, no further action will be taken by the County Supervisor or other FmHA personnel without prior clearance with the OGC. If the case has been referred to the U.S. Attorney, clearance with the U.S. will be obtained through the OGC.

§ 1990.114 Default.

(a) When the borrower fails to make payment of principal or interest in accordance with the terms of the note or other instrument evidencing the small-scale biomass energy project insured loan or otherwise fails to perform its obligations under the loan agreement, the State Director shall take such action to enforce the rights and protect the interests of the Government as may be appropriate and available under the loan agreement and security instruments, including foreclosure. Foreclosure shall be initiated only after consultation with OGC which shall be responsible for referral to the U.S. Attorney General for legal action.

(b) Any recovery received by the U.S. Attorney General on behalf of the Government shall not be deposited in the Treasury of the United States as miscellaneous receipts, but shall be used to reimburse the Agricultural Credit Insurance Fund or Rural Development Insurance Fund, as the case may be, by which the insured loan was funded and insured.

§ 1990.115 Liquidation.

Where the State Director determines that liquidation of an insured loan under this Subpart is necessary because of one or more defaults or third party actions that the borrower cannot or will not cure or eliminate within a reasonable period of time, the State Director will proceed to liquidate the insured loan in accordance with § 1827.17, except without County Committee involvement.

Subpart C—Biomass Energy Project Loan Guarantees

§ 1990.201 Eligibility.

In addition to the eligibility requirements stated in Subpart A applicable generally to all financial assistance under this Part, applications for biomass energy project loan guarantees must meet the following requirements:

(a) *Lender Unwilling Without Guarantee.* (1) A loan may not be guaranteed under this Subpart unless FmHA is satisfied that the lender is not willing without the guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which the loan is sought.

(2) The procedure for determining and documenting the guaranteed lender's unwillingness to lend without the guarantee will be similar to that of § 1933.2 for applying the credit elsewhere test to insured loans.

(b) *Lender Risk.* The Act requires assurance that the lender bear a reasonable degree of risk in the financing of the biomass energy project. In addition to the risk resulting from the limitation on the amount of guarantee stated in § 1990.203, the lender will be responsible for properly servicing the loan, including obtaining and preserving the security stated in the application, as provided in §§ 1980.210 and 1990.211. The lender will agree, as a condition of the guarantee that negligent servicing by the lender will result in unenforceability of the guarantee by the lender to the extent of loss caused by such negligent servicing. (See FmHA Form 449-34.)

§ 1990.202 Loan purposes.

(a) A loan which may be guaranteed under this Subpart C shall be for the construction of a biomass energy project:

(1) Which will have an annual production capacity of less than 15 million gallons of ethanol (or the energy equivalent of other forms of biomass energy) and which will use feedstocks other than aquatic plants or municipal wastes; or

(2) Which will have an annual production capacity of 15 million or more gallons of ethanol (or the energy equivalent of other forms of biomass energy) and

(i) Which will use wood or wood wastes or residues, or

(ii) Which is owned and operated by a cooperative and will use feedstocks other than aquatic plants or municipal wastes.

(b) A small-scale biomass energy project which does not receive an insured loan under Subpart B may be considered for a guaranteed loan under this Subpart C.

(c) Construction as defined in § 1990.3(a)(10) includes acquisition, conversion and expansion of existing facilities but not the acquisition of facilities operated as a biomass energy project before the acquisition.

(d) Construction costs for a facility which produces biomass energy other than biomass fuel includes only costs related to constructing or converting boilers, on-site machinery and handling equipment which is necessary for the use of biomass as a fuel.

(e) With respect to projects producing biomass fuel and byproducts, construction costs may include portions of such facility related to the production of such byproducts in accordance with § 1990.7.

(f) Other permissible loan purposes (As related to biomass energy projects) include those listed in § 1980.411(a) (10) (11) (13) (14) and (15).

§ 1990.203 Loan Guarantee amount limitations.

(a) A guaranteed loan shall not exceed 90 percent of the cost of construction of a biomass energy project, provided that the loan guarantee shall not exceed 90 percent of such loan.

(b) The applicant will be required to contribute sufficient tangible assets to provide reasonable assurance of a successful project. A minimum of 20 percent equity will be required on the applicant's balance sheet, at the time when the guarantee is issued. To the

extent that amounts of cash equity in addition to the minimum equity requirement are provided by the applicant, priority consideration will be given to the application in accordance with § 1990.206(b).

§ 1990.204 Subsequent loan guarantees.

If the total estimated costs of construction of a biomass energy project guaranteed under this Subpart will exceed the total estimated construction costs of construction initially submitted by the applicant, an additional loan, upon application, may be guaranteed against loss of principal and interest for up to 60 percent of the difference between the construction costs then estimated and the construction costs initially estimated.

§ 1990.205 Receiving and processing applications.

(a) *Organization for administering program.* (1) The biomass energy project loan guarantee program is administered by the FmHA Administrator through a State Director serving each State. The State Director is the focal point for this program and the local contact person for processing and servicing activities, unless otherwise stated.

(2) Administrative provisions establishing the internal duties, responsibilities and procedures for carrying out the program, including the establishment within FmHA of an Office of Renewable Resources and its relationship to the overall biomass loan and loan guarantee program and to FmHA State, District and County offices, will be integrated with or published as appendices to this or other Subparts of this Part.

(b) *Methods of solicitation of applications.* (1) Small-scale biomass energy projects. Applications for loan guarantees for small-scale biomass energy projects will be received and processed on a continuous solicitation basis in accordance with paragraphs (d)(2) and (e)(2) of this section.

(2) Intermediate-Scale biomass energy projects.

(i) Applications for intermediate-scale biomass energy projects will be received and processed pursuant to an initial simultaneous solicitation in accordance with paragraph (d)(1) and (e)(1) of this section.

(ii) Additional simultaneous solicitations may be announced in the Federal Register for implementing subsequent to the initial simultaneous solicitation.

(3) Large scale biomass energy projects.

(i) Applications for loan guarantees for biomass energy projects with an annual production capacity of 15 million or more gallons of ethanol (or the energy equivalent of other forms of biomass energy) which will use wood or wood wastes or residue or which is owned and operated by a cooperative and uses feedstocks other than aquatic plants or municipal wastes (large-scale biomass energy project) will be received pursuant to the continuous solicitation rather than the simultaneous solicitation basis (see § 1990.5(b)). Such applications will be processed in accordance with paragraphs (d)(2) and (e)(2) of this section.

(c) *Preliminary discussion and application assistance.* (1) Applicant should conduct preliminary discussions with FmHA regarding eligibility, priorities, requirements and conditions, and compliance with this Subpart. For simultaneous solicitations, such preliminary discussions shall be in accordance with provisions of the notice of solicitation which will be published in the Federal Register within 30 days of the effective date of these regulations.

(2) FmHA may provide assistance in the form of data, information, studies or other material in accordance with provisions of the notice of solicitation which will be published in the Federal Register.

(d) *Applications.* (1) Applications for loan guarantees of biomass energy projects in response to a simultaneous solicitation shall be in such form and contain such supporting information as the notice of solicitation, as published in the Federal Register, requires, and, to the extent not inconsistent with such notice of solicitation, as § 1990.105(d) provides.

(2) Applications for loan guarantees of biomass energy project submitted on a continuous solicitation basis shall comply with requirements of § 1990.105(d).

(e) *FmHA evaluation of application.* (1) FmHA will evaluate applications for loan guarantees of biomass energy projects received in response to a simultaneous solicitation in accordance with the provisions of § 1990.105(e), the requirements of this Subpart and Subpart A, and the provisions of the notice of solicitation, as published in the Federal Register.

(2) FmHA will evaluate applications for loan guarantees of biomass energy projects received on a continuous solicitation basis in accordance with the provisions of § 1990.105(e) and the requirements of this Subpart and Subpart A.

(3) If FmHA determines it is able to guarantee the loan, it will provide the lender and the applicant with Form FmHA 449-14, listing all requirements for such guarantees. The Conditional Commitment for Loan Guarantee evidences approval of the application and will be issued within 120 days after receipt of the application (which in the case of a simultaneous solicitation will be not earlier than the date fixed in the simultaneous solicitation notice for receipt of applications.)

(4) *Review of requirements.* (i) Immediately after reviewing the conditions and requirements in Form FmHA 449-14, and the options listed on the back of the form, the Lender and applicant should complete and sign the "Acceptance or Rejection of Conditions," and return a copy to the FmHA State Director. If certain conditions cannot be met, the Lender and borrower may propose alternate conditions to FmHA.

(ii) If the Lender indicates in the "Acceptance or Rejection of Conditions," that it desires to obtain a Loan Note Guarantee and subsequently decides at any time after receiving a conditional commitment that it no longer wants a Loan Note Guarantee, the Lender should immediately advise the FmHA State Director.

(5) When an application is disapproved, the applicant, within 120 days after receipt of the application, will be given written notice of the reasons and the applicant may resubmit an application that is modified to address concerns raised by FmHA, or by the Department of Energy as a result of consultation pursuant to § 1990.205(g). Review of the modified application shall be limited to those specific concerns specified in the notice of disapproval and to any issues raised by changed circumstances.

(f) *Issuance of the Guarantee.* Procedure for issuance of loan guarantees of biomass energy projects under this Subpart shall conform to that for guarantees under § 1980.60 and 1980.61.

§ 1990.206 Evaluation criteria.

In addition to the priority criteria and eligibility requirements stated in Subpart A (including §§ 1990.5–1990.18 and in other sections of this Subpart C (including §§ 1990.201–203) loan guarantees for biomass energy projects may be made only if:

(a) There is reasonable assurance of repayment of the guaranteed loan from the project's income (including byproduct income) received by the borrower and assurance that loan repayment is not dependent on continuance assistance under § 1990.215.

(b) The project is technically feasible and gives acceptable evidence that the

applicant will initiate and complete the project in a timely and efficient manner.

(c) The economic and technical feasibility required by the preceding paragraphs (a) and (b) are demonstrable by reference to analyses in accordance with Appendix A of Subpart B.

(d) The FmHA Standard Supplementary General Conditions for Construction Contracts (FmHA Instruction 1942–A, Guide 18) with the amendments in Attachment A to Appendix A of Subpart B will apply to the Project.

(e) In simultaneous solicitation evaluations, criteria for preferential consideration will include the evaluation criteria specified in the notice of solicitation as published in the Federal Register.

§§ 1990.207–1990.209 [Reserved]

§ 1990.210 Maturity and repayment schedules.

(a) *Repayment Period.* Each loan guaranteed under this Subpart will be scheduled for repayment over a period not to exceed the lesser of (1) 30 years from the date of the note, (2) the expected average useful life of the major physical assets essential to the project, or (3) a period agreed to by the lender and the borrower and approved by FmHA.

(b) *Repayment Schedules.* Principal and interest on the loan will be due and payable as provided in the promissory note. The Lender will structure repayments as established in the loan agreement between the Lender and borrower. Ordinarily, such installments will be scheduled for payment as agreed upon by the lender and applicant but on terms that reasonably assure repayment of the loan. However, the first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income, but such installment will be due and payable within 1 year from the date of the promissory note and at least annually thereafter. Interest shall be due at least annually from the date of the note. Monthly, quarterly or semi-annual payments will be expected.

§ 1990.211 Interest rates.

Interest rates for guaranteed loans under this Subpart will be negotiated between the lender and the borrower. They may be fixed or variable as long as they are legal.

(a) A variable interest rate must be a rate that is tied to a base rate published in a financial publication specifically agreed to by the lender and borrower. It must rise and fall with the selected base rate and changes can be made no more than quarterly. There will be no floor or ceiling on variable interest rates.

Under a Memorandum of Understanding between FmHA and the Farm Credit Administration dated September 25, 1974, the interest rate on loans made by the Bank for Cooperatives, Federal Land Banks and Production Credit Associations may be a variable rate based on their administrative and borrowing costs.

(c) Any change in the interest rate between the date of issuance of the Form FmHA 449–14 and before the issuance of the Loan Note Guarantee must be approved by the State Director. Approval of such change will be shown on an amendment to Form FmHA 449–14.

(d) It is permissible to have one interest rate on the guaranteed portion of the loan and another interest rate on the unguaranteed portion of the loan, provided the lender and borrower agree and:

(1) The rate on the unguaranteed portion does not exceed that currently being charged on loans of similar size and purpose for borrowers under similar circumstances.

(2) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion.

(e) When multi-rates are used the lender will provide FmHA with the overall effective interest rate for the entire loan.

§ 1990.212 Fees.

(a) A guarantee fee of one percent of the total guaranteed portion of the loan guaranteed under this Subpart shall be paid by the lender and deposited by FmHA in the Treasury of the United States as miscellaneous receipts. The fee requirement may be passed on by the lender to the borrower.

(b) The guarantee rate may be revised periodically to cover anticipated administrative expenses, interest and principal payment continuance assistance, and probable default costs, but the revised fee may not exceed 1 percent of the total guaranteed portion of the loan and shall apply to loan guarantees made after such revision.

§ 1990.213 Security.

(a) All loans guaranteed under this Subpart will be secured in a manner which will adequately protect the interest of FmHA until repaid.

(b) The borrower and lender will comply with § 1980.443(a) and § 1980.444 with respect to security.

(c) Where the project is located on a farm, § 1980.112(c) shall apply.

(d) The borrower will provide evidence of title to security property satisfactory to FmHA and the lender and in accordance with the provisions of § 1823.268(c).

§ 1990.214 Loan closing and servicing.

(a) The lender shall service the loan guaranteed under this Subpart and shall exercise such care and diligence in the disbursement, servicing and collection of the loan as would be exercised by a reasonable and prudent lender dealing with a loan without a guarantee.

(b) Loans guaranteed under this Subpart will be serviced in accordance with § 1980.469.

§ 1990.215 Continuance assistance.

(a) If FmHA determines that the borrower is unable to meet payments and is not in default on a loan guaranteed under this Subpart and it is in the public interest to permit the borrower to continue with the project and the probable net benefit to the United States in paying the principal and interest due under the loan will be greater than that which would result in the event of a default, FmHA may pay the lender such principal and interest payments.

(b) The borrower, in such event, will be obligated to repay FmHA the amount necessary to reimburse FmHA for such payment on terms and conditions including interest and collateral which FmHA determines are sufficient to protect the financial interest of the United States.

§ 1990.216 Default.

(a) When the borrower has defaulted in making required payments of principal and interest (or other obligation materially affecting the rights of the parties) on any portion of a loan guaranteed under this Subpart and such default has not been remedied within the period of grace provided in the loan agreement, FmHA will proceed in accordance with § 1980.63, following written demand of the holder for payment of the guarantee.

(b) Upon payment by FmHA to the lender or holder of the guaranteed debt, FmHA will be subrogated to the rights of the recipient of the payment, who shall assign and transfer all security and collateral rights related to the guaranteed portion of the loan.

§ 1990.217 Liquidation.

If either the holder or FmHA concludes that liquidation of a loan guaranteed under this Subpart is necessary because of defaults or third party actions that the borrower cannot or will not cure or eliminate within a reasonable period of time, it will notify the other party and the matter will be

handled in accordance with § 1841.66 and § 1841.67.

Appendix A

1990.105(d)(xiii)

Technical Feasibility Requirements for Biomass and Alcohol Fuels Project Applications

General Technical Requirements and Guidance. (1) Applications for financial assistance under the biomass energy program will be related to FmHA's full requirements with respect to technical, economic, marketing, financial and managerial feasibility. See, especially, Form FmHA 449–1, "Application for Loan and Guarantee," item 17(g), and FmHA Instruction 1980.442, "Feasibility Studies." This appendix deals with specifically technical feasibility matters, but it is to be understood that the overall feasibility analysis in project applications will integrate the technical feasibility analysis with the other elements of a satisfactory feasibility demonstration.

(2) In general, Planning, Bidding and Performance of Development will be carried out in accordance with requirements as specified and described in FmHA Instruction 1942–A, Appendix B. Final plans, specification and contract documents must be prepared by an engineer who has had previous experience in the design of facilities similar to the proposed project.

(3) Applicable paragraphs of Attachment A to this Appendix will be added to the standard supplementary General Conditions of the contract documents.

Design Criteria: Primary Fuel Source. (1) All projects to be financed under this program must utilize the most cost effective primary fuel system.

(2) Cost-effectiveness shall be determined utilizing the procedures and methods described in U.S. Department of Energy 10 CFR Part 436: *Methodology and Procedure for Life Cycle Analysis,* except that the discount rate utilized shall be 7 percent.

Plant Operation, Maintenance and Safety. (1) The engineer or designer/builder will prepare an Operation and Maintenance Manual for the proposed project and submit it to the owner(s) prior to plant start-up. The manual will describe the specific operation and maintenance procedures which must be implemented by owner(s) for the plant to perform in accordance with its rated capacity and efficiency.

(2) Specific attention will be paid in the manual to the safety practices required to insure the health and safety of plant personnel and visitors.

Technical Feasibility Documentation. (1) Each application for financing under this program will contain a Preliminary Technical Feasibility Report prepared by qualified consultants who have had previous experience in the design and operation of facilities similar to the proposed facilities and who are qualified in the analysis of all features of the proposed project which might affect its technical feasibility.

The Preliminary Technical Feasibility Report is based on verifiable information with sufficient detailed computations and supporting documentation to show that the proposed plant is cost-effective and energy efficient and that the plant will operate at the planned efficiency and output. The Report contains the information and data necessary for an objective appraisal of the project's technical feasibility.

(3) The Report compares the costs and effectiveness of alternative development schemes and processes and justifies the selection of the proposed project. The Report shows that the recommended plant size and location are best suited for the applicant considering his needs and objectives, market constraints, availability of feedstocks and existence of other fuel production facilities in the area.

(4) The following outline will be used as a guide to determine the completeness of this Report:

Outline of Preliminary Technical Feasibility Report for Biomass-Energy and Alcohol Fuels Production Projects

I. General

A. Description of the Project:
1. Needs and objectives of the owner(s)
2. Existing related on-site facilities and equipment
3. Other fuel production facilities in the area

B. General Design Criteria:
1. Plant Sizing Criteria
2. Equipment Performance Criteria
3. Plant Efficiency/Performance Criteria

C. Alternatives:
1. Processes
2. Equipment
3. Configuration
4. Capacities
5. Plant Location
6. Fuel Source

D. Comparison of Alternatives

E. Cost Effectiveness Comparison of Primary Fuel Systems

II. Selected Project

A. Description of Equipment (General)

B. Description of Process (Narrative-Diagram)

C. Potential for Future Expansion

D. Process efficiency/Performance for various Feedstocks

E. Permits/Licenses/Easements (Federal, State, Local, Commercial)
1. Royalties, Taxes, Fees
2. Application Procedure (General)
3. Specific Requirements (Outline)
4. Application Processing Time

F. Insurance:
1. Availability
2. Limitations
3. Related Requirements

G. Applicable Design Codes/Safety Standards/Physical Security of Plant

H. Environmental Impacts (Form FmHA 449–10 and supporting or descriptive material

III. Management

A. Experience of Owner in operation of Similar Facilities

B. Personnel:
1. Training Requirements/Proposals
2. Administrative and Operation Staff Requirement (by Category/Number)
3. Shift Work Force (by Category/Hours)

IV. Raw Materials:

A. Type:
1. Feedstock(s)
2. Chemicals

B. Sources:
1. Reliability of supply
2. Transportation Considerations
3. Prices

C. Quantity.

D. Quality Considerations.

V. Process Fuels:

A. Type

B. Source:
1. Realiability of Supply
2. Transportation Considerations
3. Prices

C. Quantity

VI. Products:

A. Type

B. Market Area/On Farm Use

C. Quantity

D. Prices

E. Distribution:
1. Transportation Facilities
2. Storage
3. Problems

F. Quality:
1. Additional Processing Requirements
2. Moisture Content
3. Proof/Energy Content
4. Nutritional Value of Stillage

VII. Material Balance:

A. Input/Output Flow Diagram:
1. Flow Rates
2. Accumulated Products/Wastes

B. Water Supply Requirements

C. Waste Disposal/Recycling

D. Detailed Computations

VIII. Energy Considerations:

A. Energy Input Overall Plant Operation (all Facilities):
1. Fuel type
2. Quantity

B. Process Heat/Cooling Energy Balance

C. Energy Content of Fuel Products

D. Energy Expended in Transportation of Raw Materials and Distribution of Primary and Secondary Plant Products

E. Plant Efficiency

F. Detailed Computation

IX. Facilities and Equipment:

A. Maintenance:
1. Routine Maintenance Requirements
2. Anticipated Replacement of Equipment (20 year period)
3. Availability of Replacement Parts
4. Corrosion Control

B. Operations:
1. Process Parameters:
a. Temperatures
b. Pressure
c. Hydraulics
d. Power Requirements
e. Detailed Computations
2. Process and Quality Control:
a. Automatic Operations
b. Monitoring Requirements
c. Narrative
3. Seasonal Constraints:
a. Feedstocks and other inputs
b. Process
c. Products

C. Equipment Manufacturer/Supplier (Packaged Plants Patented Processess):
1. Previous Installations

2. Certified Performances
3. Special Guaranties

D. Plot Plan (Show relationship of all buildings, water supply, waste dispoosal, transportation facilities, power supply, etc.)

E. Plant Layout (Equipment and Support Facilities)

X. Construction:

A. Cost Estimate:
1. Equipment/Supplies (not included in construction contract)
2. Construction
3. Lands, Structures, Rights-of-Way
4. Special Permits
5. Legal/Accounting Fees
6. Engineering
7. Capitalized Interest
8. Training Expense
9. Initial Operation and Maintenance Expenses
10. Operation and Maintenance Manual
11. Contigency

B. Unusual Construction Problems
C. Estimated Construction Period
D. Anticipated Useful Life of Facilities
E. Salvage Value after 5 Years and 10 Years

Attachment A-1—Recommended Additions to Standard Supplementary General Conditions for Biomass Energy Alcohol and Fuel Production Projects

1. Qualified individuals representating the manufacturers of principal equipment (or the Designer/Bidder if the Contractor has designed the plan) will visit the plant site at two month intervals for a period of one year after acceptable plant start-up and acceptance of all construction by the Owner. Such Personnel shall be experienced in the proper operation and maintenance of applicable plant components. A report shall be presented to the Owner within two weeks of each site visit advising the Owner of operation and maintenance deficiencies. If equipment or workmanship are found to be defective, these items shall be repaired or replaced by the Contractor at no cost to the Owner during the guaranty periods stated elsewhere in the contract documents. The cost of these visits shall be shown separately on the bid schedule.

2. If during the guaranty period stated in the General Conditions the plant does not meet the performance criteria shown on the plans or specified elsewhere in the contract documents because of defects in workmanship, equipment or materials, in addition to other remedies available to the Owner, the Contractor shall pay liquidated damages (in addition to the liquidated damages stated elsewhere in the Contract Documents) in accordance with the following schedule:

$——— per calendar day that the plant is shut down
$——— per pound reduction of output of _____
$——— per gallon reduction of output of _____
$——— per Cu Foot reduction of output of _____

3. The Contractor shall guarantee all materials and equipment furnished and work performed for a period of one (1) year from the date of substantial completion. The Contractor warrants and guarantees for a period of one (1) year from the substantial completion of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of the damage of other parts of the system resulting from such defects. The owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Contractors the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.

4. After completion of the Contract, except for item 1 above, all monies withheld from the Contractor in accordance with other provisions of the contract documents and all subsequent withholdings shall be placed in an interest bearing account. This retainage including accrued interest shall be returned to the Contractor less authorized deduction after the expiration of the guaranty period stated elsewhere in the contract documents.

[FR Doc. 80-23665 Filed 8-4-80; 9:13 am]
BILLING CODE 3410-01-M

DEPARTMENT OF JUSTICE

Civil Rights Division

Drug Enforcement Administration

Immigration and Naturalization Service

Parole Commission

8 CFR Ch. I, 21 CFR Ch. II, 28 CFR Ch. I

Semiannual Regulatory Agenda; Deferral of Publication Date

AGENCY: Department of Justice.

ACTION: Deferral of publication date for Semiannual Regulatory Agenda.

SUMMARY: The Department of Justice is deferring publication of the Semiannual Regulatory Agenda of four operating units of the Department.

FOR FURTHER INFORMATION CONTACT: William J. Snider, Administrative Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530 ([202) 633-3452).

The Department of Justice announced at 44 FR 56520, October 1, 1979, that organizational units of the Department would publish their respective Semiannual Regulatory Agendas on July 31, 1980. With the exception of the Civil Rights Division (CRD), the Drug Enforcement Administration (DEA), the Immigration and Naturalization Service (INS), and the United States Parole Commission (USPC), all operating units of the Departments that are proposing to develop any new significant regulations, make any significant changes to existing regulations, or review any existing regulations pursuant to Executive Order 12044, as amended, published their respective agendas on that date or the following day, August 1, 1980. The agendas of CRD, DEA, INS and USPC will be published on or before August 29, 1980.

Dated: July 31, 1980.

William J. Snider,

Administrative Counsel, Justice Management Division, Department of Justice.

[FR Doc. 80-23627 Filed 8-4-80; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

9 CFR Part 318

Bacon Made With Dry Curing Materials—Correction of End of Comment Period

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Correction of end of comment period on proposed rule.

SUMMARY: The end of the comment period of the proposed rule titled "Bacon Made with Dry Curing Materials" published in the Federal Register on June 27, 1980 (45 FR 43425-43430) was inadvertently specified as August 26, 1980. It was intended that the end of the comment period be September 25, 1980, allowing 90 days for comment. Accordingly, the end of the comment period is corrected to read September 25, 1980. All other provisions contained in the June 27, 1980, publication remain the same.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION: Dr. A. J. Liepold, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, Washington, D.C. 20250, (202) 447-9051.

Done at Washington, D.C., on: July 31, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-23477 Filed 8-4-80; 8:45 am]
BILLING CODE 3410-DM

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 205

[Docket No. ERA-R-80-04A]

Reports on Major Electric Utility System Emergencies

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: On March 27, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gave notice of a proposed rulemaking pursuant to sections 202 and 311 of the Federal Power Act (45 FR 20109) and invited public comments and requests for a public hearing on the proposed rules. That proposed rule, proposed rules for reports of impending major electric utility system emergencies, customer load reductions and/or significant service interruptions to bulk electric power supply and actions to minimize their impact. On the basis of the excellent comments received from the utility industry, and an intra-agency review of the regulations as initially proposed, ERA determined that the proposed regulations should be revised and reissued. On May 9, 1980, ERA ordered the comment period, on the original regulations, which has expired on April 30, 1980, to be extended another 30 days until June 9, 1980, to allow additional comments in light of the decision to revise the proposed regulations. ERA also ordered that a public hearing, which had been requested by several parties, be held after issuance of the revised proposal. ERA hereby gives notice of a rulemaking pursuant to sections 202 and 311 of the Federal Power Act, a request for public comments, and the intent to hold a public hearing.

DATES: Comments on this proposed rule are invited and should be submitted on or before September 5, 1980. Requests to speak at public hearing are due by August 27, 1980. Hearing date: September 3, 1980.

ADDRESS: All comments to: Department of Energy, Docket Control Center, Docket No. ERA R-80-04A, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., Office of Utility Systems, Economic Regulatory Administration, U.S. Department of Energy, Room 4110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3825.

Lise Courtney M. Howe, Office of General Counsel, U.S. Department of Energy, Room 5E-064, Forrestal Building, 1000 Independence Avenue, NW., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

On March 27, 1980, ERA published proposed rules for reports of impending major electric utility system emergencies, customer load reductions and/or significant service interruptions to bulk electric power supply and actions to minimize their impact (45 FR 20109). In the preamble to those proposed rules, ERA described DOE's authority under Sections 202(a) and 311 of the Federal Power Act and ERA's purpose in revising the reporting requirements which were originally issued by the Federal Power Commission. ERA invited public comments on the proposed rules and stated that comments should be submitted on or before April 30, 1980. The notice stated that requests for a public hearing should be filed on or before April 21, 1980.

ERA received extensive comments on the proposed rules which were very helpful and upon review of the comments and the regulations themselves, ERA has determined that the proposed regulations should be revised. On May 9, 1980, ERA ordered that (1) the comment period on the original proposed rules be extended 30 days until June 9, 1980; and (2) that the requests received for a public hearing to be held at that time be denied in order to allow for a revision of the regulations isued on March 27, 1980. The order further stated ERA's intention to issue revised proposed regulations and to hold a public hearing and allow a brief comment period upon issuance of the revised proposal.

II. Environmental Analysis

DOE has reviewed these proposed regulations pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969, and determined that the proposed action does not constitute a major federal action significantly affecting the quality of the human environment.

III. Significance Review

DOE has determined that these are not significant regulations and that they will not have a major impact within the meaning of the DOE procedures implementing Executive Order 12044 on "Improving Government Regulations" (DOE Order 2030.1, 44 FR 1032, January 3, 1979). Therefore, a regulatory analysis is not required for these proposed regulations.

DOE further has determined that the proposed regulations will not substantially affect the goals of the National Energy Plan and are not of major concern to the public, the Congress, and the President. In addition, analysis shows the regulations would not result in any incremental costs in excess of $100 million per year. The impact of the revised proposed rules is expected to be minor because electric utilities already report most of the proposed required information under Title 18 of the CFR. Currently, ERA receives between ten and twenty incident reports each month. The proposed changes in the reporting requirements are expected to increase the average number of reports filed to between twenty and thirty each month.

IV. Comments Received

ERA received numerous comments on the initially proposed rules. The comments received were both of a general nature concerning the overall scope, impact and use of the proposed rules, and specific comments on individual sections and subsections within the proposed rules.

Several general comments were received concerning the increased burden and the cost of such a burden on the reporting utilities. Some parties stated that ERA had grossly underestimated the increased number of reports and that the proposed rules would have a significant impact on their operations because so much time would be required to file the reports. Some parties contended that the proposed rule serves no useful purpose and that due to the increased required reporting, the rules should be classified as significant.

In this revision, ERA has clarified the proposed rules to eliminate certain ambiguities found in the initial proposed rules which, no doubt, precipitated the commentator's concern that the number of reports required would be significantly increased.

As stated above, ERA has determined that the revised proposed rules are not significant and will not have a major impact within the meaning of the DOE procedures implementing Executive Order 12044 on "Improving

Governmental Regulations." ERA believes that the information to be reported under the revised proposed rules is of value to the Department of Energy in fulfilling its statutory responsibilities under the Federal Power Act.

Three parties suggested that the reports of major electric utility system emergencies be collected and analyzed by the National Electric Reliability Council (NERC). ERA rejects this suggestion for three reasons: (1) NERC is a voluntary organization and it has no authority to require the emergency reports; (2) NERC has no legal emergency authority for providing assistance to utilities; and (3) NERC does not have the obligation to make reports to the Congress. ERA would welcome any analyses and/or participation by NERC in this activity but ERA must retain the basic authorities and direct contact with impacted utilities in order to ensure that the public interest is served.

One association requested that ERA prepare a detailed analysis of the benefits gained from the emergency reports that have been collected by ERA and previously by the Federal Power Commission. ERA has not done such a detailed analysis and does not believe such an effort to be in the total public interest. ERA and its predecessor agency have used the emergency reports to prepare and review legislation, and to prepare special reports for public distribution. For example, the in-depth review and reports of the New York City blackouts were accomplished under this activity.

ERA believes that issuing these proposed rules for public comments, and incorporating such comments where necessary into the revised rules, is a better procedure for establishing rules than basing them on internally performed studies.

Specific comments on particular sections and subsections within the proposed rules follow.

The initially proposed rules were entitled "Reports on Impending Major Electric Utility System Emergencies, Customer Load Reductions, and/or Significant Service Interruptions in Bulk Electric Power Supply and Actions to Minimize their Impact." A few parties suggested that the word "Impending" be removed from the title as it would be presumptuous to report an event as an "impending emergency." ERA agrees and has, therefore, deleted the word "impending" from the title.

Other phrases in the title, "customer load reduction," and "significant electric power supply interruption," were defined in section 205.351. Several parties submitting comments on the definitions appeared to confuse these definitions with actual reporting requirements. ERA has determined that the definitions in section 205.351 are misleading and of minor value to the proposed rules. Hence, the definitions found in section 205.351 were deleted and the phrases removed from the title so that it now reads "Reports of Major Electric Utility System Emergencies."

Several parties stated that the reporting time requirements contained in the initial section 205.352 were unreasonable. They point out that operators are extremely busy during a system emergency and that to impose reporting requirements on them at this time could hinder their restoration efforts. Some parties added that since ERA cannot provide assistance there is no need for such short reporting time requirements. Finally, another utility suggested uniform reporting times to avoid confusing operators.

ERA recognizes that system operators are very busy during system emergencies and that these reporting requirements should not interfere with system restoration efforts. For this reason ERA has included in each reporting requirement, the phrase "as soon as practicable" in order to provide the necessary flexibility in reporting. Also, several of the time requirements for notifying ERA were lengthened. Uniform reporting time requirements would have to be based on the shortest time to met ERA needs. This would be burdensome in cases where ERA needs for notification are less critical.

ERA disagrees with the comments that ERA cannot offer any emergency assistance. ERA has emergency responsibilities and authority under section 202(c) of the Federal Power Act to order the emergency transfer of electric energy. In addition, ERA may assist other Federal agencies, such as the Federal Emergency Management Agency which can provide emergency assistance to electric utilities. If appropriate, ERA can exercise its emergency response as soon as notified. This must take place shortly after the incident occurs in order for the Federal Government to provide timely assistance to the general public.

ERA received several comments on the initial subsection 205.352(a) which required entities to report, "any decision to issue a request to any customer or a general public request for reduction in the use of electricity." The parties pointed out that an ordinary request by a utility to its customers to conserve energy would fall into this category. ERA agrees with these comments; § 205.351(a) now reads "issuance of any public or private request to any customer or the general public to reduce the use of electricity *for reasons of maintaining the continuity of service* of the reporting entity's bulk electric power supply system."

Several parties stated that ERA does not need this information within one hour after issuance of any such request. ERA agrees and has changed the notification times in subsections 205.351(a) and (b) to be within 24 hours after the load curtailment action.

We received several comments on the initial subsection 205.352(c) which required utilities to report "any action to reduce firm customer load by manual switching, automatic devices, or any other means for reasons of maintaining adequacy of the reporting entity's bulk electric power supply system." The commentators pointed out any relay or fuse operation which caused a customer outage would be reportable under this requirement, and such events occur frequently without jeopardizing the reliability of the bulk power system. ERA agrees with these comments and has changed the requirement to read "any load shedding action that results in the reduction of firm customer load totalling 100 megawatts or more by manual switching, automatic devices, or other means for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system."

One party stated that the routine use of load management equipment could be reportable under the initial requirement. ERA does not consider the routine use of load conservation or load control equipment a threat to the bulk electric power supply system. Therefore, a sentence was added to § 205.351(c) to clarify this situation. The time in which a reporting utility must notify ERA of such action occurring has been lengthened from one hour to three hours.

ERA received numerous comments on the initial subsection 205.352(d) which required entities to report power supply facility failures that constitute an unusual hazard to the reporting entity's bulk power supply system. Four examples were included in this subsection. Most parties stated that the examples were poorly defined; furthermore, they could not determine exactly what a reportable event would be.

ERA does not intend to define all the possible events that could constitute an unusual hazard to the reporting entity's bulk electric power supply system. That determination is best left to the reporting entity. The examples illustrate the types of situations about which ERA must know. Thus, the language

presenting the examples was changed to clarify this point.

In addition, ERA received many comments on the second example, in subsection (d) which referred to a system which is unable to withstand a single contingency without loss of service to customers or is unable to satisfy the applicable reliability council operating criteria. ERA agrees with the commentators who stated that this situation occurs frequently and is at times difficult to determine. Therefore, ERA has deleted this example.

The phrase "suspected acts of vandalism or sabotage," referred to in the fourth example, has been modified by deleting the "act of vandalism" because of one utility's concern that minor acts of vandalism, such as graffiti, would be reportable.

ERA has added a new example of the situation where power system frequency declines to 59.7 hz or lower, and results in the loss of firm customer load. The reporting of underfrequency conditions was a new requirement initially contained in subsection 205.352(i) and is further discussed below.

ERA received many comments on the requirement in the initial § 205.352(e) that outages of more than 100 MW for longer than 15 minutes be reported. Most stated that 100 MW was too small for large systems and that the requirement should remain at 200 MW. One utility commented that the phrase "on the bulk electric power system" should remain in this subsection because section 202(a) of the Federal Power Act does not give DOE authority to require reports on distribution systems. Other parties stated that the Federal government's requirement of reports of incidents on the distribution system infringes on the State government's jurisdiction. ERA agrees in part and has changed the reporting requirement to 200 MW for systems with a peak load in the prior calendar year greater than 3000 MW. Another party requested that ERA clarify the term "aggregate of loads." This term refers to the loss of load resulting from either a single event or multiple events which may occur on either the bulk or distribution systems. In determining the aggregate of loads which are interrupted, any load which is interrupted in accordance with the provisions of a contract permitting interruption in service shall not be included. The amount of load interrupted should be an estimate of the normal demand for those customers without service.

ERA believes that reports of outages of 100 MW or greater for 15 minutes on smaller systems are necessary.

Finally, in response to the argument that the requirement to report emergencies to the ERA is an infringement on the state's jurisdiction, DOE has determined that section 311 of the Federal Power Act gives DOE the legal authority to require the reporting of incidents which impact the adequacy of electric power service and which occur in distribution systems.

We received many comments concerning the initial § 205.352(f) which required, for the first time, that widespred outages affecting over 50,000 customers for longer than one hour be reported. Most parties stated that 50,000 customers were too few. Outages which affect only distribution feeders can easily involve 50,000 customers and can require longer than an hour to correct. Therefore, ERA has changed the requirement to read "any widespread outage * * * which lasts longer than three hours and is estimated to affect more than 50,000 customers or more than one-half of the reporting entity's total customers, whichever is less." ERA believes that three hours is a reasonable period in which to correct ordinary service interruptions which affect more than 50,000 customers. As it would be impractical to report this event within three hours of the occurrence, the notification time was lengthened to be within 24 hours of the occurrence.

Several utilities stated that it is very difficult to determine the number of customers without service during a widespread outage. ERA recognizes this fact and changed the wording of § 205.351(f) to allow for estimates.

One utility commented that ERA has no authority under sections 202(a) and 311 of the Federal Power Act to require reporting of events on distribution systems. As stated previously, ERA does have this authority under section 311.

ERA received many comments on the initial subsection 205.352(g) which required utilities to report, for the first time, forced outages longer than three days of generating units with over 400 MW nameplate capacity or any Federal, State or local regulatory agency ordered shutdown of any generating unit. Most parties stated the 400 MW figure is too low and that this date is already collected by the National Electric Reliability Council (NERC). ERA agrees and has dropped the reporting requirement for forced outages. The revised requirement now reads "the ordered shutdown or operating limitation of any generating unit with a generator nameplate of 400 MW or greater by an Federal, State or local regulatory agency."

ERA received a few comments on the initial § 205.352(h) concerning fuel emergencies. One utility stated that it was unclear what information was to be reported in the event of a fuel emergency. ERA agrees that the information requested concerning other reported incidents is not applicable in the case of a fuel emergency. Hence, ERA removed this reporting requirement from § 205.351 to a new § 205.353 on fuel emergencies. The new section requires utilities to notify the Electric Power Monitoring Center by telephone in the event of a fuel emergency. ERA has also added a requirement for the reporting of low hydro storage in this section. Another comment on this subsection was that fuel tank levels vary from year to year due to price changes and hence, the 50 percent criteria could result in unnecessary reports and anxiety. ERA considers such variations in fuel tank levels to be normal, and therefore not reportable under the stated requirement.

ERA received a few comments on § 205.352(i) which required the utilities to report, for the first time, whenever the system frequency declined to 59.7 hertz or lower for more than 60 seconds. Most stated that this requirement would result in reporting by numerous utilities although the event may not constitute an actual emergency. One party stated that operating at 59.7 hz or lower for greater than 60 seconds is a frequent occurrence on its system and the result of "nothing more than a transient which it was designed to accommodate." Other utilities stated that an event which could cause this frequency decline would be reportable under § 205.352(d). Other parties requested that a lower limit be specified.

ERA has considered the comments and agrees that such a condition would be reportable under § 205.351(d). Therefore, another example was added to § 205.351(d) and this reporting requirement dropped.

ERA will accept joint reports on frequency declines from two or more entities. In cases where system frequency declines to 59.7 hz. One report from the appropriate power pool would be sufficient and hence, great numbers of reports would not be necessary. ERA believes that when system frequency falls below 59.7 hz for more than 60 seconds, either the system is not responding correctly to control requirements or a major system disturbance has occurred.

ERA recognizes that underfrequency load shedding is a method of balancing load and generation after a system disturbance. However, ERA believes that a properly designed system normally should shed only interruptible loads and should recover from a recovery decline in less than 60 seconds.

Several parties stated that the amount of information required in §§ 205.353 and 205.354 as originally proposed is substantial and would require additional staffing or utilization of dispatching or operating personnel to prepare and file the reports. The information to be reported is essentially the same as that required under the Federal Power Commission requirements. The revised rules should limit the number of reports to only slightly more than those being received now so that the utilities will not require additional staffing.

A few parties stated that the Administrator of ERA, rather than ERA's Director of the Division of Power Supply and Reliability, should issue directions to submit a Special Report as described in the initial § 205.354. ERA disagrees with this comment because the Director has the appropriate expertise to make this decision and is deemed to be delegated this authority with issuance of these regulations as final rules. However, ERA has added the provision that any direction to a utility to submit a special report will be noticed in the Federal Register with the specific information required. As information will be made public, the particular reporting requirements contained in the initial subsection 205.354(b) have been deleted.

In the initial § 205.355 ERA requested subject entities to make their contingency plans available for review by the general public. A few parties stated that their plans are highly sensitive and they should not be disclosed to the general public. Accordingly, ERA has added language to § 205.355 which allows for the treatment of property information.

Several parties requested that ERA closely coordinate its reporting requirements with those of the Federal Energy Regulatory Commission (FERC) under Section 206 of the Public Utility Regulatory Policies Act of 1978. ERA already has communicated with the FERC on this issue and continues to work with that agency to eliminate any duplicate reporting. Any contingency plans filed with FERC in response to Section 206 of the Public Utility Regulatory Policies Act of 1978 will be accepted by ERA.

V. Written Comment and Public Hearing Procedure

A. Written Comments

You are invited to participate in this proceeding by submitting information, opinions or arguments with respect to the proposal set forth in this Notice. Comments should be submitted by 4:30 p.m., D.S.T., September 5, 1980, to the address indicated in the "Address" section of this Notice and should be identified on the outside of the envelope and on documents submitted, with the designation "Electric Power System Emergency Reporting Rule," Docket No. ERA–R–80–04A. Five copies should be submitted. All comments received will be available for public inspection in the DOE Freedom of Information Office, GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public Information, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Any information or data submitted which is considered to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedures for request to make oral presentation.*

The times and places for the hearing are indicated in the "Dates" and "Address" sections of this Notice. If you have an interest in this proposed rule or represent a person, group or class of persons that has an interest, you may make a written request for an opportunity to speak at the public hearing. Requests to speak must be sent to the address shown in the "Address" section and must be received by August 27, 1980.

A request to speak at the hearing should briefly describe the interest and, if applicable, state why you are a proper representative of a group or class of persons having such interest. In addition, your request should give a concise summary of the proposed oral presentation and a daytime phone number where you may be contacted. All persons participating in the hearing will be so notified on or before August 29, 1980. For the September 3, 1980, hearing you should submit 15 copies of your hearing testimony for receipt by 4:30 p.m. on August 29, 1980, to Public Hearing Management, U.S. Department of Energy, Room 2214, 2000 M Street, N.W., Washington, D.C. 20461.

2. *Conduct of public hearing.* We reserve the right to schedule participants' presentations and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation based on the number of persons requesting to be heard.

ERA will designate officials to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement may be given the opportunity, if time permits and if so desired, to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to ask a question at the hearing, you may submit it in writing to the presiding officer at the hearing. The presiding officer will determine whether time limitations or information available permit it to be presented for answer at that time or by a written response at a later time.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

ERA will have a transcript made of the hearing, and ERA will retain the entire record of the hearing, including the transcript, and make it available for inspection at the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public Information, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of the transcript may be purchased from the reporter.

In consideration of the foregoing, the Department of Energy proposes to amend Part 205 of Chapter II, Title 10, Code of Federal Regulations to read as set forth below.

Issued in Washington, D.C., on July 29, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Part 205, Chapter II of Title 10, Code of Federal Regulations is amended by establishing Subpart W.

Subpart W—Electric Power System Permits and Reports

Reports on Major Electric Utility System Emergencies

Sec.

Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101). Federal Power Act, 41 Stat. 1063 (16 U.S.C. 791).

Subpart W—Electric Power System Permits and Reports

Reports on Major Electric Utility System Emergencies

§ 205.350 General purpose.

The purpose of this rule is to establish a procedure for the Economic Regulatory Administration (ERA) to maintain current information regarding the status of the electric energy supply systems in the United States so that appropriate Federal emergency response measures are implemented in a timely and effective manner. This data also may be utilized in developing legislative recommendations and other reports to the Congress.

§ 205.351 Reporting requirements.

For the purpose of this section, a report or a part of a report may be made jointly by two or more entities. Every electric utility or other subject entity engaged in the generation, transmission or distribution of electric energy shall report promptly to the DOE/ERA Electric Power Monitoring Center (EPMC) any events as described in subparagraphs (a) through (g) of this section:

(a) The issuance of any public or private request to any customer or the general public to reduce the use of electricity for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. (ERA shall be notified as soon as practicable, but no later than 24 hours after the issuance of such a request.)

(b) Any reduction of system voltage for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. (ERA shall be notified as soon as practicable, however, in any event within 24 hours after the initiation of the action.)

(c) Any load shedding action that results in the reduction of firm customer load totalling 100 megawatts (MW) or more by manual switching, automatic devices, or other means for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. The routine use of load control equipment that reduces firm customer load is not considered to be reportable action. (ERA shall be notified within three hours after such action is taken if practicable, or as soon thereafter as practicable.)

(d) Any electric power supply equipment or facility failure that, in the judgment of the reporting entity, constitutes a hazard to the current or prospective adequacy and/or reliability of the reporting entity's bulk electric power supply system. (ERA shall be notified within three hours of the occurrence of the event if practicable, or as soon thereafter as practicable.) Examples of situations which may be reportable under this provision could be ones which:

(1) Cause the operating area to be dependent upon neighboring utilities for large quantities of unexpected electricity deliveries to supply the operating area's loads for greater than one hour;

(2) Cause a significant increase in the use of natural gas or distillate oil as a fuel for generating equipment, and resulting in a situation where replacement of this fuel may be a problem;

(3) Are caused by a suspected act of sabotage; or

(4) A power system frequency decline to 59.7 hz or lower that results in the loss of any firm customer load.

(e) Any loss in service for 15 minutes or more by an electric utility of an aggregate of firm loads totaling 100 MW or more, or 50 percent or more the load being supplied immediately prior to the incident, whichever is less. However, utilities with a peak load in the prior year of 3000 MW or greater are only to report any loss of service for 15 minutes or more by the electric power supply system of an aggregate of firm load totalling 200 MW or more. (ERA shall be notified as soon as practicable without unduly interfering with service restoration and, in any event, within three hours after the beginning of the interruption.)

(f) Any widespread outage on an electric utility system which lasts longer than three hours and is estimated to affect more than 50,000 customers or more than one half of the reporting entity's total customers, whichever is less. (ERA shall be notified within 24 hours of the occurrence if practicable, or as soon thereafter as practicable.)

(g) The ordered shutdown or operating limitation of any generating unit with a generator nameplate rating of 400 MW or greater by any Federal, State or local regulatory agency. (ERA shall be notified as soon as practicable after the issuance of such an order but not later than the next working day.)

§ 205.352 Information to be reported.

The power supply data shall be supplied to the EPMC in accordance with the current DOE pamphlet on reporting procedures. The initial report should include the utility name; the area affected; the time of occurrence of the initiating event; the duration or an estimate of the likely duration; an estimate of the number of customers and amount of load involved; and whether any known critical services such as hospitals, military installations, pumping stations, or air traffic control systems, were or are interrupted. To the extent known or suspected, the report shall include a description of the events initiating the disturbance. The ERA may require further clarification during or after restoration of service.

§ 205.353 Fuel emergencies.

Utilities shall notify the EPMC by telephone whenever a utility or other subject entity determines that a fuel supply emergency exists or is projected to occur. A fuel supply emergency exists when supplies of fuels or hydroelectric storage for generation are at a level or projected to be at a level which would threaten the reliability or adequacy of electric service. The following factors shall be taken into account to determine that a fuel emergency exists: (1) Fuel stock or hydro storage levels are 50 percent or less of normal for the particular time of the year and; (2) a continued downward trend in fuel stocks or hydro storage level is projected. (ERA shall be notified as soon as practicable but no later than three days after the determination.)

§ 205.354 Special investigation and reports.

If directed by ERA's Director of the Division of Power Supply and Reliability, in writing and noticed in the Federal Register, a utility or other subject entity experiencing a condition described in § 205.351 above shall submit a full report of the technical circumstances surrounding the power system disturbance, including the restoration procedures utilized. The report shall be filed at such time as may be directed by the Director, Division of Power Supply and Reliability.

§ 205.355 Contingency planning reports.

When incidents and emergency situations occur, utilities or other subject entities may be required to continue operating with power supply deficiencies or interruptions. Each electric utility and its appropriate regional Reliability Council or subgroup should prepare and maintain contingency plans for emergency operations including load reductions and curtailments, and should coordinate such procedures with those of neighboring utilities. Such plans should be in a format acceptable to the appropriate state or local governmental authority. A copy of these plans should be filed with ERA. Any plan filed with the FERC in response to Section 206 of the Public Utility Regulatory Policies Act of 1978 also will be accepted by the ERA. If these plans or procedures

contain proprietary information which the utility believes should not be released to the general public, the submitting entity must so state and explain, in writing, the reasons for the requested proprietary treatment. Because the contingency plans affect consumers and other utilities, and may require local, State or Federal government response, utilities should make their contingency plans available for review by local government emergency action officials.

[FR Doc. 80-23558 Filed 8-4-80; 8:45 am]
BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 375

[Special Regulations Docket 38532; Dated: July 28, 1980]

Navigation of Foreign Civil Aircraft Within the U.S.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to amend its rules to simplify the reporting requirements imposed upon foreign commercial carriers that operate occasional plane-load charters or continuing cargo operations. This rulemaking is at the Board's own initiative.

DATES: Comments by: September 30, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable. Requests to be put on the Service List by: August 11, 1980. The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 38532, Civil Aeronautics Board, 185 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Patricia L. DePuy, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5878.

SUPPLEMENTARY INFORMATION: CAB rules (14 CFR 375.42) permit foreign carriers to operate a limited number of commercial transport charters each year outside the scope of section 402 of the Federal Aviation Act. Under this rule, the carriers may operate two types of charters: (1) occasional plane-load charters, where the entire capacity of the plane is engaged by a single charterer for any one operation, not to exceed 6 flights per year; and (2) continuing cargo operations, in which the carrier may serve not more than 10 different contractors per year on a continuing basis.

To conduct either type of operation, a carrier must submit the § 375.42 application form (CAB 272) to the Board. The carrier must fill in certain information (specified in § 375.40) about the carrier's proposed operations. Under § 375.44, the carrier must also submit a report, either on CAB Form 321 for cargo flights or in letter form for passenger flights. These reports contain information similar to that required by CAB Form 272. In addition the carrier must also report whether authority granted has not been used. The reports serve two purposes: (1) to enforce the yearly six-flight limit on occasional planeload charters; and (2) to monitor the operations for compliance with Part 375.

The proposed amendment would revoke § 375.44 to eliminate the operational report. It also would amend § 375.42 to require each foreign carrier to notify the Board of any unused authority within 15 days of the expiration date of its permit (for occasional charters) or every 30 days (for continuing cargo operations). If a carrier failed to notify the Board of unused authority, all authority granted would be deemed to have been used.

We are proposing this amendment because we consider the operational reports to be needlessly duplicative of the application form. Because carriers must maintain records of operations conducted under § 375.42, the Board has sufficient means of enforcing compliance with Part 375 should problems arise. The requirement that carriers report unused authority to the Board is being continued primarily for the benefit of the operator, *i.e.*, so that operations granted but not used will not be counted against the flight limitations of § 375.42.

Accordingly, the Board proposes to amend Part 375, *Navigation of foreign civil aircraft within the U.S.*, as follows:

1. In § 375.42, a new paragraph (b)(3)(iii) would be added, to read:

§ 375.42 Commercial transport operations.

* * * * *

(b)(3) * * *

(iii) *Reports of unused authority.*

All foreign operators of occasional plane-load charters for which authority is granted must notify the Board, in writing, not later than 15 days after the expiration of their permit of their failure to use this authority. All foreign operators of continuing cargo operations must notify the Board, in writing, not later than 30 days after starting operations, and every 30 days thereafter, of failure to use any part of the authority. The unused authority shall otherwise be deemed to have been exercised.

* * * * *

2. § 375.44, *Reports on commercial transport operations,* would be revoked and reserved.

(Sections 204(a) and 1108(b) of the Federal Aviation Act of 1958; 72 Stat. 743, 798, 49 U.S.C. 1324, 1508)

By the Civil Aeronautics Board:

Phillis T. Kaylor,

Secretary.

[FR Doc. 80-23557 Filed 8-4-80; 8:45 am]
BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 239

Guides Against Deceptive Advertising of Guarantees

AGENCY: Federal Trade Commission.

ACTION: Invitation to submit written comments.

SUMMARY: The Commission is seeking written comment on what approach it should take to facilitate non-deceptive warranty advertising. In 1960, the Commission issued its Guides Against Deceptive Advertising of Guarantees ("Guides") 16 CFR Part 239 *et seq.* (1980). The Guides, based on prior administrative case law, provide guidance as to what disclosure is necessary for a warranty advertisement to avoid deception. In 1975, the Magnuson-Moss Warranty Act (15 U.S.C. 2301-12) was enacted, which, among other things, required that consumer product warranty information be available at point-of-sale and encouraged the dissemination of accurate warranty information. In light of the provisions of the Magnuson-Moss Warranty Act, the Commission is considering whether to rescind the Guides, and is seeking comment on whether the Guides function to restrict the availability of non-deceptive warranty advertising and how best to ensure non-deceptive warranty advertising without requiring the extensive disclosures provided for in the Guides.

DATE: Comments must be received on or before October 6, 1980.

ADDRESS: Comments should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580 (Clearly marked "Guides Against Deceptive Advertising of Guarantees").

FOR FURTHER INFORMATION CONTACT: Miriam W. Silverman, Attorney, (202) 523–1753, Allen Hile, Attorney, (202) 523–3828, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On June 29, 1979 the Staff presented to the Commission a rulemaking proposal which was designed to implement the provisions of the Magnuson-Moss Warranty Act. The proposal was intended to prevent consumers from being misled by warranty advertising while permitting warrantors more freedom in advertising their warranties. The Commission, on November 7, 1979, instructed the staff to seek alternatives to the proposed rule.

The proposed rule was intended to replace the current Commission enforcement policy on warranty advertising, the Guides, which requires that all advertising mentioning a warranty disclose essentially all the terms, conditions and limitations of the warranty. Specifically, the Guides require disclosure of the nature and extent of the warranty, the manner in which the warrantor will perform and the warrantor's identity. In practice, either because of the complexity of the warranty or the high cost of the particular advertising medium-used, the Guides' provisions for complete disclosure may serve as a deterrent to advertising warranties. At the time the Guides were issued in 1960, the warranty advertisement generally was the only warranty information to which the consumer had access prior to purchasing the product. However, the Magnuson-Moss Warranty Act, which became effective in 1975, requires that the terms of any written warranty of a consumer product be available prior to sale. (Magnuson-Moss Warranty Act, 15 U.S.C. 2302.) Thus, it is now possible for consumers to obtain complete pre-purchase warranty information without having to rely on complete disclosure in warranty advertising.

For these reasons, the Commission is considering rescinding the Guides and in their place adopting alternatives as described below, either individually or in combination, for ensuring that warranty advertising is non-deceptive.

1. To treat warranty advertising like most other forms of advertising and rely on the already existing body of advertising law as guidance to determine what warranty advertising is deceptive. If there are instances of deceptive warranty advertising in the future, these could be addressed on a case-by-case basis.

2. To prohibit, by Rule, Guide, or on a case-by-case basis, specific language in warranty advertising which is found to be deceptive. For example, if the phrase "X year limited warranty" was determined to be deceptive, use of that phrase would be prohibited.

3. To require, by Rule, Guide, or on a case-by-case basis, disclosures to remedy deceptive warranty advertising, so that consumers will not be misled by partial information. For example, if a warranty advertisement disclosed benefits of the warranty, this alternative would require the major limitations of the warranty be disclosed as well.

4. To require, by Rule or Guide, certain disclosures in all warranty advertisements. For example, warranty advertisers would be required to disclose whether the warranty is full or limited, or that it is available at point-of-sale.

The Commission invites public comment on these alternatives and a number of questions designed to develop alternate approaches to the Guides in light of the disclosure requirements of the Magnuson-Moss Warranty Act. Your comment will aid the Commission in determining what action, if any, is appropriate with regard to regulation of warranty advertising.

Questions for Comment

All interested parties are urged to provide data, studies, views or arguments on any or all aspects of the enforcement options the Commission is proposing with respect to warranty advertising. The Commission specifically invites comment on the following questions:

1. Can warranty advertising be used to promote sales? Has it been used successfully in the past to promote sales?

2. Please comment on advertisers' experience with warranty advertising under the Guides. Have the Guides' requirements been difficult to understand or fulfill? If so, how could such difficulties be avoided?

3. What criteria should be considered in determining whether warranty advertising is misleading or deceptive?

a. Is there specific language (for example, "lifetime guarantee") which is inherently misleading or deceptive in a warranty advertisement? Please supply supporting data.

b. Please provide data or other supporting material indicating whether or to what extent the following statements are accurate.

i. Consumers commonly believe that the duration (period of coverage) of a warranty is the only important difference among warranties.

ii. A consumer's purchasing decision is so strongly influenced by his or her first exposure to information that any subsequent information has little chance of overcoming his first impression. As an example, point-of-sale warranty information will not overcome any misleading impressions which a consumer may have received from an advertisement.

iii. Consumers assume "limited 1 year warranty" means that the only limitation on the warranty is to the duration (period of coverage).

iv. Unless warned, consumers expect the warranty to be without limitation.

v. Consumers assume that a "full warranty" covers the entire product for all defects.

c. Should the following examples of partial information disclosures in warranties be considered misleading? Please supply supporting data.

Example: An automobile ad which states "full warranty," when the battery, radio, tires, and hoses are not covered.

Example: An air conditioner ad which states "10 year limited warranty," when only the compressor is warranted for 10 years, and the rest of the product is warranted for a shorter period of time.

Example: A television ad which states a "2 year guarantee," when the warranty does not include labor.

4. What are the minimum disclosures, if any, necessary for warranty advertising to be non-deceptive? For example, would it be sufficient to disclose that the warranty has limitations?

5. Would reference to the availability of warranty information at point-of-sale be effective in warranty advertising? Should such a reference be required?

6. If the Guides were abolished or disclosure requirements were reduced:

a. Would warrantors advertise warranties more or less?

b. Would warrantors advertise in media other than those they use now?

c. Would you expect to see more or less deceptive advertising? Deceptive in what way?

7. If the Commission were to abolish the Guides without further action, would this provide adequate protection for consumers?

8. If the Commission were to abolish the Guides without further action, would advertisers be left with adequate guidance to determine what might be deceptive or misleading in a warranty advertisement?

a. Does warranty advertising require guidance or regulation different from other advertising?

b. If so, what additional guidance would warranty advertisers want from the Commission?

9. Please describe any alternatives to the Guides which you believe would be effective in preventing misleading warranty advertising without stifling non-deceptive advertising.

10. Should different media, such as print or television, be considered separately and treated differently? If so, how should the various media be treated?

Notice to Interested Persons: Written Comments

Results of surveys and other research studies.—If you submit the results of a survey or other research study, please also submit the following information, which is necessary to enable the Commission to evaluate the survey or study you have submitted:

(a) A complete report of the survey or other research study and the information and documents listed in (b) through (e) below if they are not included in that report.

(b) A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

(c) Copies of all questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

(d) A description of methodology used in conducting the survey or the research study including the selection of instructions to interviewers, introductory remarks by interviewers to respondents, and a sample questionnaire or other data collection instruments.

(e) A description of the statistical procedures used to analyze the data, and all data tables which underlie the results reported.

(f) The name, address and telephone number of persons preparing and conducting the study if professional researchers.

Public record.—All materials submitted for the public record will be available for examination at the Commission's Public Reference Room, Room 130, Federal Trade Commission Building, Sixth Street at Pennsylvania Avenue, NW., Washington, D.C. 20580.

Any person who desires to obtain copies of the above materials for his or her own use must make arrangements in advance with the Commission representatives specified above.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-23572 Filed 8-4-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26

[LR-234-79]

Generation-Skipping Transfer Tax Regulations Under the Tax Reform Act of 1976; Return Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this Federal Register, the Treasury Department is issuing a temporary regulation regarding requirements for making the return of tax for generation-skipping transfers. The temporary regulation also serves as a notice of proposed rulemaking for final generation-skipping transfer tax regulations.

DATES: The temporary regulation applies generally to generation-skipping transfer made after June 11, 1976. The proposed regulations are to be effective for the same period. Written comments and requests for public hearing must be delivered or mailed by October 6, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-234-79), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287 (Not a toll-free number).

SUPPLEMENTARY INFORMATION: The temporary regulation in the Rules and Regulations portion of this issue of the Federal Register amends 26 CFR by adding a new Part 26a. The final regulations which are proposed to be based on the temporary regulation would amend 26 CFR by adding a new Part 26. For the text of the temporary regulations, see FR Doc. 80-23608 [T.D. 7711] published in the Rules and Regulations portion of this issue of the Federal Register.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-23609 Filed 8-4-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2550

Maintenance of the Indicia of Ownership of Plan Assets Outside the Jurisdiction of the District Courts of the United States

AGENCY: Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed revisions to existing regulations under section 404(b) of the Employee Retirement Income Security Act of 1974 (ERISA), which prescribe conditions under which a fiduciary of an employee benefit plan is permitted to maintain the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States. The proposed revisions are designed primarily to provide additional means by which the indicia of ownership of certain plan assets may be maintained by certain banks in the custody of specified foreign entities.

DATES: Written comments concerning the proposed revisions must be submitted on or before October 6, 1980.

ADDRESSES: Interested persons are invited to submit written data, views or arguments concerning the proposed revisions to "Revisions to 29 CFR 2550.404b-1", Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20016, on or before the date indicated above. All such submissions will be open to public inspection in the Public Documents Room, Pension and Welfare Benefit Programs, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Jane M. Kheel, Office of the Solicitor, U.S. Department of Labor, [202] 523-6844. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor (the Department) has under consideration certain proposed amendments to 29 CFR 2550.404b-1. The

Department's reasons for issuing the proposed revisions are set forth below.

Background

Section 404(b) of ERISA prohibits fiduciaries of employee benefit plans from maintaining the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States except as authorized by regulation. Regulation 404b–1, which was published in the Federal Register on October 4, 1977 (42 FR 54122), prescribes conditions under which a fiduciary of an employee benefit plan may maintain the indicia of ownership of certain plan assets outside the jurisdiction of the district courts of the United States.

Under paragraph (a)(2)(i) of the regulation, generally, the indicia of ownership of certain plan assets may be held abroad if the assets are under the managment and control of a qualifying fiduciary which is a domestic bank, insurance company or registered investment adviser and which satisfies certain other requirements. [1] In the alternative, paragraph (a)(2)(ii)(A) provides that the indicia of ownership of such assets may be maintained in the physical possession of a regulated domestic bank, or broker or dealer which meets certain criteria designed to assure financial responsibility. In addition, under paragraph (a)(2)(ii)(B), the indicia of ownership may be maintained abroad by a bank broker or dealer which satisfies the financial criteria in paragraph (a)(2)(ii)(A) if held in the custody of an entity designated by the Securities and Exchange Commission (the Commission) as a satisfactory control location pursuant to Rule 15c3–3 under the Securities Exchange Act of 1934, provided (1) that the entity holds the indicia of ownership as agent for the bank or broker or dealer, and (2) that the bank, broker or dealer is liable to the plan to the same extent it would be if it retained physical possession of the indicia of ownership. [2]

At the time regulation 404b–1 was adopted, it appeared to the Department that the regulation would adequately deal with virtually all investments in foreign securities by employee benefit plans because, in most instances of foreign investment of plan assets, such assets would be under the management and control of a bank, insurance company or investment adviser which would be considered a qualifying fiduciary within the meaning of paragraph (a)(2)(i) of the regulation. In those instances where plan assets would not be under the management and control of a qualifying fiduciary, the indicia of ownership could be maintained in the physical possession of a qualifying custodian. Alternatively, a qualifying custodian could maintain the indicia of ownership in the custody of an entity designated by the Commission as a "satisfactory control location."

Reason for the Proposed Amendment

The Department has received submissions from the American Bankers Association and several banks requesting a modification of regulation 404b–1. In those submissions, the requesting parties indicate that, as a result of increased plan investment in foreign assets, and the increased use of master trustee arrangements where custodial and investment responsibilities are separated, bank fiduciaries which do not have management and control over plan assets have an increasing potential role in holding the indicia of ownership of plan assets outside the United States. These parties also indicate that United States banks often do not have foreign branches in locations in which it may be desirable for plans to acquire and hold plan assets and that even where such branches do exist, they may lack appropriate custodial facilities for safekeeping. As a result, a number of banks submitted applications to the Commission for the designation of certain foreign banks and foreign depositories as "satisfactory control locations" so that plan assets could be held at such locations in compliance with the Department's regultion.

The staff of the Commission has taken the position, however, that since section 15(c)(3) of the Securities Exchange Act of 1934 and the rule thereunder apply only to brokers and dealers, the Commission will approve a foreign entity as a "satisfactory control location" under Rule 15c3–3 only upon the application of a broker or dealer. [3]

Proposed Amendments

In view of the unavailability to banks of the "satisfactory control location" procedure, the submitting parties have requested the Department to revise regulation 404b–1 to permit banks which do not exercise managment and control of plan assets to maintain the indicia of ownership of plan assets in the custody of certain foreign banks and foreign depositories. [4]

In light of these requests, the Department is proposing to permit a bank described in regulation 404b–1(a)(2)(ii)(A) (*1*) (*i.e.*, a bank which is organized under the laws of the United States or a State, has its principal place of business within the United States, is a bank as defined in section 202(a)(2) of the Investment Advisers Act of 1940, and has, as of the last day of its most recent fiscal year, equity capital in excess of $1,000,000) to maintain the indicia of ownership of plan assets with respect to which it does not exercise management and control in certain regulated foreign entities in lieu of the requirement that they be maintained in a satisfactory control location. Under the proposed revision, the indicia of ownership of plan assets could be maintained by a bank in the custody of a foreign entity provided that conditions similar to those in current regulation

[1] "Management and control" is defined under regulation 404b–1(c) to mean "the power to direct the acquisition or disposition through purchase, sale, pledging, or other means." The qualifying fiduciary would generally be responsive to domestic legal process for any breach of fiduciary responsibility under ERISA.

[2] Rule 15c3–3 requires, among the things, that a broker or dealer obtain promptly, and thereafter maintain, possession or control of all fully paid and excess margin securities carried by it for the account of its customers. Under subparagraphs (c)(4) and (c)(7) of Rule 15c3–3, a broker or dealer will be deemed to have control of securities if the securities are (1) in the custody of a foreign depository, foreign clearing agency or foreign custodian bank which has been designated as a "satisfactory control location" by the Commission, or (2) held in such other locations as the Commission shall find and designate to be adequate for the protection of customer securities. Securities Exchange Act Release No. 10429 (October 12, 1973) (Release) contains guidelines for the designation by the Commission, upon application, of a satisfactory control location. The guidelines provide, among other things, that foreign securities lodged abroad are considered to be in the control of the broker or dealer for whom they are held, to the extent that such securities are not subject to any right, charge, security interest, lien or claim of any kind in favor of the foreign entity except for their safe custody or administration, and to the extent that beneficial ownership of such securities is freely transferable without the payment of money or value other than for safe custody or administration. The release also provides that applications to the Commission for designation as a satisfactory control location must contain the name, address and principal place of business of the foreign entity which serves as a location for the lodgment of the foreign securities and the name and address of the governmental agency or other regulatory authority which supervises or regulates the respective foreign entity. Moreover, notwithstanding that an entity may satisfy the criteria set forth in the Release, if the Commission determines that it would not be in the public interest or in the interest of investors, such entity may not be deemed a satisfactory control location.

[3] *See, e.g.*, letter from Michael A. Macchiaroli, Branch Chief, SEC Division of Market Regulation, to Kelley, Drye & Warren (May 17, 1979).

[4] Several of the parties that requested modification of regulation 404b–1 indicated that management and control over plan assets might, in some circumstances, be delegated to foreign-based investment managers. Although the proposal discussed here does not permit or preclude such a delegation, the Department notes that it does not intend, by proposing to amend the regulation in response to these requests, to suggest any view on the lawfulness of a delegation of management and control over plan assets to an entity that might not be subject to adequate recourse in this country for any possible breach of fiduciary duties.

404b–1(a)(2)(ii)(B) (relating to the holding of plan assets in a satisfactory control location) are met. These conditions are designed to ensure adequate protections to plans utilizing the custodial services of such foreign entities.

The proposed revision, however, differs in some respects from the current provisions relating to the holding of assets in a satisfactory control location. The proposed amendment would permit the foreign holding provided that the bank would be liable to the plan to the same extent it would be if it retained physical possession of the indicia of ownership within the United States. Under the current requirement governing the holding of assets in a satisfactory control location, a bank or broker or dealer is liable to the same extent it would be if it retained the physical possession of the indicia of ownership pursuant to paragraph (a)(2)(ii)(A), which permits a bank or broker or dealer to hold the indicia of ownership in a foreign branch office.

The change is designed to ensure that a bank's liability with respect to assets held in an entity abroad would not be limited by the law of the foreign jurisdiction in which such entity is located.[5]

The proposed regulation, if adopted, would also include certain provisions similar to those in the Commission's Release, discussed above. For example, the regulation would require that: (1) The indicia of ownership would not be subject to any right, charge, security interest, lien or claim of any kind in favor of the foreign entity except for their safe custody or administration and (2) beneficial ownership of the assets represented by the indicia of ownership would be freely transferable without the payment of money or value other than for safe custody or administration.

In its Release, the Commission requires a broker or dealer utilizing a foreign entity as a satisfactory control location to submit to the Commission the name, address and principal place of business of such foreign entity. The proposed regulation does not require that any such submission be made to the Department. However, in order to ensure that a plan is informed of the location of its assets held abroad, under the proposal the bank would be required to identify the foreign entities having custody of the indicia of ownership of plan assets at the time the bank ordinarily furnishes the plan with a statement of plan assets held by the bank. In addition, under the proposal the bank would be required to identify the governmental agency or regulatory authority that supervises or regulates those foreign entities.

[5] Since similar concerns may be present in all cases where a bank holds assets in a branch office, the Department is considering revising paragraph (a)(2)(ii)(A) to require a bank having custody of the indicia of ownership in its foreign branch office to be liable in respect to such indicia of ownership to the same degree the bank would be liable were such indicia of ownership held in a branch office located in the United States. Public comment is requested on the appropriateness of such a change and its impact, if any, on the custodian operations of foreign branches of domestic banks.

Other Matters

In addition to the proposed amendments noted above, the Department is proposing the following minor revisions which are intended to clarify the provisions of the regulation.

Since the proposed amendments, if adopted, would be effective 30 days after the date of publication of final action by the Department in the Federal Register, the Department proposes to modify the first clause of paragraph (a) by deleting the reference to the January 1, 1975 effective date contained therein.

The Department is also proposing to modify paragraph (a)(2)(ii)(B) of the regulation. Because the Commission's designation of a "satisfactory control location" is based on representations made by a particular broker or dealer in such broker or dealer's application under Rule 15c3–3, the proposed revision makes clear that a broker or dealer may not hold the indicia of ownership of plan assets in a "satisfactory control location" without the Commission's approval of that particular broker or dealer's application under the Rule.

In addition, paragraph (c) of the regulation has been modified to include a definition of the term "depository." For purposes of the regulation, the term "depository" is defined to mean any company, or agency or instrumentality of government, that acts as a custodian of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred, loaned, or pledged by bookkeeping entry without physical delivery of securities certificates.

The Department notes that compliance with the regulation in its current form, or in the form now proposed, if so adopted, would not relieve a fiduciary from the provisions of section 404(a) of ERISA which require, among other things, that a fiduciary discharge his duties in a prudent manner. Thus, in choosing a foreign entity to act as custodian of plan assets, a fiduciary, in addition to complying with section 404(b), must act prudently in making its selection.[6] This might require, for example, consideration of the operational efficiencies and costs, and the political and other risks associated with holding the indicia of ownership in a particular foreign location, as well as what action could be taken to minimize such risks.

[6] In this regard, the Department notes that in selecting a foreign entity to provide custodial services with respect to the indicia of ownership, a bank would be acting in a fiduciary capacity.

Effective Date:

The Department intends that the proposed amendment, if adopted, will be effective 30 days after the date of its publication in the Federal Register.

Statutory Authority:

The revisions set forth below are proposed under the authority of section 505 of the Act (Pub. L. 93–406, 88 Stat. 894, 29 U.S.C. 1135), and section 404(b) of the Act (Pub. L. 93–406, 88 Stat. 877, 29 U.S.C. 1104).

In consideration of the matters discussed above, it is proposed to amend regulation 29 CFR 2550.404b–1 concerning the maintenance of indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States by revising regulation 2550.404b–1 as follows:

(1) Revise the first clause of paragraph (a);

(2) Revise paragraph (a)(2)(ii)(B);

(3) Add a new paragraph (a)(2)(ii)(C); and

(4) Revise paragraph (c);

to read as set forth below.

§ 2550.404b–1 Maintenance of the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States.

(a) No fiduciary may maintain the indicia of ownership of any assets of a plan outside the jurisdiction of the district courts of the United States, unless:

* * * * *

(2) * * *

(ii) * * *

(B) Maintained by a broker or dealer, described in paragraph (a)(2)(ii)(A)(*2*) or (*3*) of this section, in the custody of an entity designated by the Securities and Exchange Commission as a "satisfactory control location" with respect to such broker or dealer pursuant to Rule 15c3–3 under the Securities Exchange Act of 1934; *Provided*, That:

(*1*) Such entity holds the indicia of ownership as agent for the broker or dealer, and

(*2*) Such broker or dealer is liable to the plan to the same extent it would be if it retained the physical possession of

the indicia of ownership pursuant to paragraph (a)(2)(ii)(A) of this section.

(C) Maintained by a bank described in paragraph (a)(2)(ii)(A)(*1*), in the custody of an entity that is a foreign securities depository or foreign bank that is supervised or regulated by a government agency or regulatory authority in the foreign jurisdiction having authority over such depositories or banks: *Provided,* That:

(*1*) The foreign entity holds the indicia of ownership as agent for the bank;

(*2*) The bank is liable to the plan to the same extent it would be if it retained the physical possession of the indicia of ownership within the United States;

(*3*) The indicia of ownership are not subject to any right, charge, security interest, lien or claim of any kind in favor of the foreign entity except for their safe custody or administration;

(*4*) Beneficial ownership of the assets represented by the indicia of ownership is freely transferable without the payment of money or value other than for safe custody or administration; and

(*5*) The bank identifies to the plan, at such time that the bank ordinarily furnishes the plan with a statement of plan assets held by the bank, the name, address and principal place of business of any foreign entities having custody of indicia of ownership of plan assets, and the name and address of the governmental agency or other regulatory authority that supervises or regulates those foreign entities.

* * * * *

(c) For purposes of this regulation:

(1) The term "management and control" means the power to direct the acquisition or disposition through purchase, sale, pledging, or other means; and

(2) The term "depository" means any company, or agency or instrumentality of government, that acts as a custodian of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred, loaned, or pledged by bookkeeping entry without physical delivery of securities certificates.

Signed at Washington, D.C. this 28th day of July 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-23267 Filed 7-30-80; 9:26 am]

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DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1202

National Register of Historic Places

AGENCY: Heritage Conservation and Recreation Service, Interior.

ACTION: Proposed amendments.

SUMMARY: These amendments update and revise in minor respects the procedures for nominations to the National Register of Historic Places by State and Federal agencies. The amendments (1) specifically define the responsibility of the State Historic Preservation Officer to establish priorities for nomination of all eligible properties to the National Register, (2) make clear that when a State review board reviews and approves a nomination, if it is procedurally correct, the State Historic Preservation Officer shall submit the nomination to the Heritage Conservation and Recreation Service unless the State Historic Preservation Officer considers the property does not meet National Register criteria, (3) establish a more open process which allows that State Historic Preservation Officer or State review board to request the Keeper to make a final decision on a nomination upon which they disagree, (4) amend the procedures by which nominations to the National Register by States and Federal agencies are reviewed by the Heritage Conservation and Recreation Service, and (5) adopt a new appeals process for the listing and removal of properties in the National Register. Minor revisions of requirements for making changes and revisions to properties listed in the National Register are also included.

DATE: Comments must be received on or before October 6, 1980.

ADDRESS: Written comments should be addressed to the Acting Keeper of the National Register of Historic Places, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20243.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Shull, Acting Keeper of the National Register, United States Department of the Interior, Heritage Conservation and Recreation Service, Washington, D.C. 20243 (202/343-6401).

SUPPLEMENTARY INFORMATION: The National Register is designed to be a comprehensive list of the Nation's significant cultural resources to be used as a planning tool by Federal, State and local governments, private groups and citizens. The State Historic Preservation Officer is responsible for establishing systematic priorities for nominating all eligible properties in the State to the National Register. The decision to nominate a property to the National Register is a professional decision concerning whether or not the property meets the National Register criteria for evaluation. Amendments to § 1202.11(c) and 1202.15(a)(1) and (a)(4) clarify the State Historic Preservation Officer's role in the nomination process and his/her responsibility to submit procedurally correct nominations approved by the State board unless the State Historic Preservation Officer determines that a property does not meet National Register criteria for evaluation.

The proposed amendments to 1202.15(a)(5) allow the State Historic Preservation Officer to submit a nomination to the Keeper for a final decision if the State Historic Preservation Officer and State review board disagree whether a property meets the National Register criteria for evaluation.

The amendments also strengthen the legislated function of the National Register as a comprehensive list of the Nation's significant cultural resources by explicitly stating that decisions of both the State Historic Preservation Officer and Federal agencies to nominate properties should be based solely on whether the property meets National Register criteria for evaluation and not on other considerations.

The nomination process in these regulations was designed to ensure high professional standards and evaluations to maintain the integrity of the National Register as the list of the Nation's significant cultural resources. The system was purposely created to assure use of multiple levels of expert professional opinion at the State level and by Federal agencies prior to the review of a nomination by the Heritage Conservation and Recreation Service.

States and Federal agencies first apply the National Register criteria for evaluation within each State or region. The National Register criteria are the standard for identifying historic properties to establish a comprehensive resource management and planning system. The identification of all cultural resources within a State is one aspect of this system. The State Historic Preservation Officer is responsible for establishing a systematic method for identifying cultural resources within a State and for the nomination of all eligible properties to the National Register. The Federal agencies are required to inventory and nominate all eligible properties under their jurisdiction or control. The National

Register criteria are worded so that they can apply to cultural resources in all States. The States and Federal agencies establish the context for evaluation of resources within State, regional and local preservation planning systems and apply the criteria to the specific types of resources in any given area.

For State nominations the State Historic Preservation Officer has the responsibility of making the first determination of which properties meet the criteria for evaluation. To ensure high professional standards the Heritage Conservation and Recreation Service requires that each State develop expertise in the disciplines of architectural history, history, archeology, and historical architecture on the State staff and State review board. All nominations are prepared under the supervision of the State Historic Preservation Officer and his or her professional staff in accordance with an approved State historic preservation plan (a comprehensive resource management and planning system). The State Historic Preservation Officer submits nominations to the State review board in accordance with the statewide priorities for preparation and submittal of nominations for all properties meeting National Register criteria. The nomination is then reviewed and a recommendation on it is made by a State review board approved by the Heritage Conservation and Recreation Service with professional expertise in the disciplines described above. The State Historic Preservation Officer again reviews the nomination after its consideration by the review board, signs it and forwards it to the Heritage Conservation and Recreation Service for further professional review at the Federal level.

Federal agencies submitting nominations to the National Register are required to have a Federal Representative for historic preservation, and are strongly encouraged to have personnel which meet the requirements of professionalism established for the States either by having professional staffs or obtaining the services of professionals to prepare nominations. Federal nominations are also sent to the State Historic Preservation Officer for review and substantive comment regarding the significance of the property and its eligibility for the National Register.

Under the current procedures all nominations undergo another indepth technical and professional review by the Heritage Conservation and Recreation Service to determine if the nomination form is technically and professionally correct and sufficient and that the nomination is in conformance with National Register criteria. The introduction to these regulations as published on September 21, 1977, described in detail the steps in this review. In recognition of the increased professional capacity of State historic preservation offices and Federal agencies submitting nominations, the Heritage Conservation and Recreation Service will no longer undertake as comprehensive a review of the technical and professional aspects of each nomination as it previously had done. Section 1202.15 (a)(4), and (b)(3) of these regulations are revised to state specifically that a State Historic Preservation Officer or Federal Representative signing a nomination is affirming that all appropriate procedures have been followed and that the nomination is technically and professionally correct and sufficient and in conformance with National Register criteria.

Section 1202.16(b) (2) and (3), concerning changes and revisions to properties listed in the National Register, is revised slightly to specify what information must be submitted to the Heritage Conservation and Recreation Service after a property has been physically moved for properties which have remained on the National Register during the move.

Section 1202.17, concerning removal of properties from the National Register, is revised to set forth a formal appeals process whereby the State Historic Preservation Officer, Federal Representative, head of the local political subdivision in which the property is located or owner of record may petition for the removal of a property from the National Register and revises slightly the grounds for removal.

A new nomination appeals process, section 1202.18 is also added to the regulations. The revisions in general are intended to make the nomination and listing procedure a more open and comprehensive process. To assure better understanding by the public about the basis for decisions on the listing of properties in the National Register, the Heritage Conservation and Recreation Service is instituting a new policy. When the Keeper determines that a nomination presents questions about application of the National Register criteria or procedures that cannot be resolved on the basis of precedent or experience, he or she will resolve the question in a written opinion. Notice of the written opinions of the Keeper will be published in the Federal Register and will be available in a consistent format to the public. The purpose of the opinions of the Keeper will be to resolve the question at hand and to serve as guidance for subsequent applications of the National Register criteria and procedures.

In addition, the references to the Office of Archeology and Historic Preservation and National Park Service are changed to the Heritage Conservation and Recreation Service throughout the regulations.

These amendments are developed under the authority of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*, and Executive Order 11593. Because the amendments have to do with procedural aspects of the National Register program and have no impact upon the environment, an environmental impact statement is not required. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The originator of these procedures is Carol Shull of the Division of the National Register of Historic Places (202/343-6401).

Dated: July 28, 1980.

Chris T. Delaporte,

Director, Heritage Conservation and Recreation Service.

(National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 Pub. L. 89-665, 80 Stat. 1915-1919, Executive Order 11593)

Accordingly, §§ 1202.11(c), 1202.15 (a)(1), (a)(4) and (a)(5) and (b)(3), § 1202.16(b) (2) and (3) and § 1202.17 are amended and § 1202.18 is added as follows. In addition to the above amendments, the references to the Office of Archeology and Historic Preservation and the National Park Service are changed to the Heritage Conservation and Recreation Service throughout the regulations.

1. Section 1202.11(c) is amended to read as follows:

§ 1202.11 Concurrent State and Federal nominations.

* * * * *

(c) If the State Historic Preservation Officer and the State review board agree that the nomination meets the National Register criteria for evaluation, the nomination is signed by the State Historic Preservation Officer and returned to the Federal agency initiating the nomination. If the State Historic Preservation Officer and the State review board disagree, the nomination shall be returned to the Federal agency with the comments of the State Historic Preservation Officer and the State

review board concerning the adequacy of the nomination and the eligibility of the property. The State Historic Preservation Officer's signed comments shall confirm to the Federal agency that the State nomination procedures have been fulfilled including notification requirements. Any comments received by the State concerning the significance of the property shall be included with the letter.

2. Section 1202.15 (a)(1) (a)(4) and (a)(5) and (b)(3) are amended to read as follows:

§ 1202.15 Processing of nominations.

(a)(1) Nomination forms (10–300) are prepared under the supervision of the State Historic Preservation Officer. The State Historic Preservation Officer establishes statewide priorities for preparation and submittal of nominations for all properties meeting National Register criteria for evaluation within the State. All nominations from the State shall be submitted in accord with the State priorities, which shall be consistent with an approved State historic preservation plan.

(a)(4) Nomination forms approved by the State review board are then reviewed by the State Historic Preservation Officer and if he or she finds them to be technically, professionally, and procedurally correct and sufficient and in conformance with National Register criteria for evaluation, they are signed by him or her with that certification and submitted to the Keeper of the National Register of Historic Places, Heritage Conservation and Recreation Service, Washington, D.C. 20243.

(a)(5) If the State Historic Preservation Officer and the State review board disagree on whether a property meets the National Register criteria for evaluation, the State Historic Preservation Officer may submit the nomination with his or her comments and those of the State review board to the Keeper of the National Register for a final decision if he or she chooses. The State Historic Preservation Officer shall submit such nominations if so requested by the review board but need not otherwise do so. The State Historic Preservation Officer shall also submit to the Keeper nominations if so requested under the appeals process in § 1202.18. Comments received by a State concerning a property's significance are submitted with the nomination.

(b)(3) After receiving the comments of the State Historic Preservation Officer, or if there has been no response within 45 days, the Federal Representative may approve the nomination and forward it to the Keeper of the National Register of Historic Places, Heritage Conservation and Recreation Service, Washington, D.C. 20243. The Federal Representative shall sign the nomination form with the certification that all appropriate procedures have been followed and that the nomination is technically and professionally correct and sufficient and in conformance with National Register criteria for evaluation. The comments of the State Historic Preservation Officer shall be appended to the nomination, or, if there are no comments, an explanation shall be attached. Concurrent nominations cannot be submitted, however, until the nomination has been approved by the State in accord with § 1202.11, supra. Comments received by the State concerning concurrent nominations must be submitted with the nomination.

3. Section 1202.16(b)(2) and (b)(3) are amended to read as follows:

§ 1202.16 Changes and revisions to properties listed in the National Register.

(b)(2)(i) If it is proposed that a property listed in the National Register be moved and the State Historic Preservation Officer or Federal agency for a property under Federal jurisdiction or control wishes the property to remain in the National Register during and after the move, the State Historic Preservation Officer or Federal representative having jurisdiction or control shall submit documentation prior to the move which shall discuss: (i) the reasons for the move; (ii) the effect on the property's historical integrity; (iii) the new setting and general environment of the proposed site, including evidence that the proposed site does not possess historical significance that would be adversely affected by the intrusion of the property; and (iv) photographs showing the proposed location.

(3) Any such proposal with respect to the new location submitted by a State shall follow the required notification procedures, shall be aproved by the State review board and shall continue to follow normal review procedures. The Keeper shall respond to a properly documented request within 45 days of receipt from the State Historic Preservation Officer or Federal Representative concerning whether or not the move is approved. Once the property is moved, the State Historic Preservation Officer or Federal Representative shall submit to the Keeper for review (i) a letter notifying him or her of the date the property was moved; (ii) photographs of the property on its new site; and (iii) a revised map, acreage, and verbal boundary description.

(b)(4) If the Keeper approves the move, the property will remain on the National Register during and after the move unless the integrity of the property is, in some unforseen manner, destroyed. If the Keeper does not approve the move, the property will be automatically deleted from the National Register when moved. In cases of properties removed from the National Register, if the State or Federal agency has evidence that previously unrecognized significance exists, or has accrued, the State or Federal agency may resubmit a nomination for the property.

4. Section 1202.17 is amended to read as follows:

§ 1202.17 Removing properties from the National Register.

(a) Grounds for removing properties from the National Register are as follows:

(1) The property has ceased to meet the criteria for the National Register because the qualities which caused it to be originally listed have been lost or destroyed; (2) error in professional judgment as to whether the property meets the criteria of the National Register; or (3) prejudicial and substantial procedural error in the nomination and listing process. Properties removed from the National Register for procedural error shall be reconsidered for listing by the Keeper after correction of the error or errors by the State Historic Preservation Officer or Federal agency which originally nominated the property, or by the Keeper, as appropriate. The Keeper shall follow the procedures set forth in section 1202.15(a)(6–8) or section 1202.15(b)(4–6) hereof, as appropriate, in such reconsiderations.

(b) The appropriate State Historic Preservation Officer, Federal Representative, head of the local political subdivision in which a property is located, or owner of record may petition for removal of the property from the National Register on the grounds established in subsection (a). Petitions for removal are submitted to the Keeper through the State Historic Preservation Officer for State nominations and the Federal Representative for Federal nominations.

(c) The State Historic Preservation Officer or Federal Representative shall respond in writing to the petition within 45 days of receipt advising the petitioner of his or her view on the petition. Thereafter, if the petitioner so requests the State Historic Preservation Officer or Federal Representative shall forward the petition to the Keeper within 10 days with his or her comments.

(d) The Keeper shall respond to the petition within 45 days of receipt. The Keeper shall make the final administrative determination. No person shall be considered to have exhausted administrative remedies with respect to delisting of a property on the National Register until he or she has complied with the procedures set forth in this section.

5. A new § 1202.18 is added and reads as follows:

§ 1201.18 Appeals for Nominations.

(a) The State Historic Preservation Officer shall respond as appropriate in writing within 45 days to any person or organization submitting a National Register nomination which meets the documentation requirements of the State and the Heritage Conservation and Recreation Service. Such response shall set forth and evaluation of the property against the National Register criteria for evaluation and the State nomination priorities.

(b) After receiving the comments of the State Historic Preservation Officer an appellant may request in writing that the State Historic Preservation Officer submit the nomination to the State review board provided the appellant has submitted an adequately documented nomination. Unless the nomination has been previously scheduled for consideration by the State review board, the State Historic Preservation Officer shall follow the notification procedures of § 1202.12 hereof and submit the nomination to the State review board pursuant to the procedures set forth in § 1202.15(a) hereof within six months of the receipt of an adequately documented request. The State Historic Preservation Officer may provide comments on the nomination for the consideration of the State review board.

(c) After consideration by the State review board, and upon notification by the State Historic Preservation Officer that either the State review board or the State Historic Preservation Officer, or both, do not approve the nomination, the appellant may nonetheless request that the State Historic Preservation Officer submit the nomination to the Keeper. In this instance the State Historic Preservation Officer shall forward the nomination to the Keeper within 45 days of such a request together with the written comments of the State Historic Preservation Officer and the State review board which may be in the minutes of the State review board meeting.

(d) If the appellant substantially revises a nomination as the result of comments by the State Historic Preservation Officer or the review board, the nomination shall be reprocessed by the State prior to consideration by the Keeper if the State Historic Preservation Officer determines such reprocessing to be necessary.

(e) The Keeper will advise the State Historic Preservation Officer and the appellant within 30 days if the appeal will be considered or denied. The Keeper will consider appeals if he or she finds that the nomination appears likely to meet the criteria of the National Register.

(f) Appeals considered by the Keeper will follow the procedures for nominations in § 1202.15(a)(6)–(8).

[FR Doc. 80-23507 Filed 8-4-80; 8:45 am]
BILLING CODE 4310-03-M

POSTAL SERVICE

39 CFR Part 111

Address Cards Arranged in Sequence of Carrier Delivery

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend and clarify the requirements for submission of address cards to the Postal Service for sequencing and correction. A uniform format for such cards is proposed and standardized control forms are included in the proposal. The proposed rule explains the different address card correction and sequencing services performed by the Postal Service and the requirements a customer must meet in order to obtain each of those services. The need for timely return of the customer's cards is expressed. The definition of a delivery in a multiple delivery building has been modified for the purpose of determining if a customer's submitted address cards meet the requirement that the cards represent at least 90% of all possible deliveries in a 5-digit ZIP Code delivery area, before complete and updated correction/sequencing can be provided.

DATE: Comments must be received on or before September 4, 1980.

ADDRESS: Written comments should be addressed to the Director, Office of Mail Classification, Rates & Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 1640, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Don Mumma, (202) 245–4353.

SUPPLEMENTARY INFORMATION: The Postal Service currently performs address card correction and sequencing services for its customers as specified in Domestic Mail Manual § 945.3. Due to complaints about the timeliness and accuracy of the information provided under those services and confusion over what services are available, the Postal Service has undertaken a comprehensive revision of section 945.3 to clarify and streamline its address card sequencing services. This proposed rule explains the conditions under which address cards may be submitted to the Postal Service (945.32) and provides for three different levels of sequencing service:

(1) "Sequencing of Address Cards." (945.33)

This service includes the arrangement of unsequenced address cards in carrier route delivery sequence. (Cards with incorrect or undeliverable addresses will be removed from the list, bundled separately, and returned to the customer.)

(2) "Sequencing of Address Cards with Total Possible Deliveries Shown." (945.34)

This service includes the arrangement of unsequenced address cards in carrier route delivery sequence with the insertion of a blank card for an incorrect or missing address or series of addresses. (Cards with incorrect or undeliverable addresses will be removed from the list, bundled separately, and returned to the customer.)

(3) "Sequencing, Updating and Complete Correction of Carrier Route Address Cards." (945.35)

This service includes:

(a) The arrangement of unsequenced address cards in carrier route delivery sequence;

(b) The correction of incorrect address cards;

(c) The inclusion of omitted addresses from the customer's list including rural address conversions to city delivery;

(d) The removal of non-existent addresses which are undeliverable by any carrier.

The proposed rule emphasizes the Postal Service's responsibility to provide timely and accurate sequencing service and provides for customer use of standardized address cards and forms to facilitate that effort. The proposed rule modifies the definition of a delivery in multiple delivery buildings—section 945.352 provides that each apartment unit or office in a building will be treated as a separate address. Therefore, the determination of whether a submitted mailing list contains 90 percent of all addresses within the 5-

digit ZIP Code delivery area (945.351) will be based on all possible deliveries for the type of list submitted in the 5-digit area. Charges for list completion will also be assessed based on all possible deliveries.

The proposed rule will also establish a procedure whereby a customer who uses the "sequencing, updating, and complete correction of carrier route address cards" service provided under § 945.35 will be able to ensure that he is using the latest carrier route scheme information in preparing carrier route presort mailings. Under the procedures proposed in section 945.39, the Postal Service will provide a customer with the latest carrier route scheme change information if the customer agrees to promptly submit for resequencing all address cards which are affected by each such change.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comment on the following proposed revision of the Domestic Mail Manual, which is incorporated by reference in the Federal Register. See 39 CFR 111.1.

Part 945—Mailing list services

Amend 945.3 of the Domestic Mail Manual to read as follows:

945.3 Address Cards Arranged in Sequence of Carrier Delivery.

.31 General. Upon request, the Postal Service will provide one of three levels of address card sequencing service under the conditions set forth in 945.32–.39.

.32 Presentation of Address Cards. When address cards are submitted to the Postal Service, the following conditions must be met:

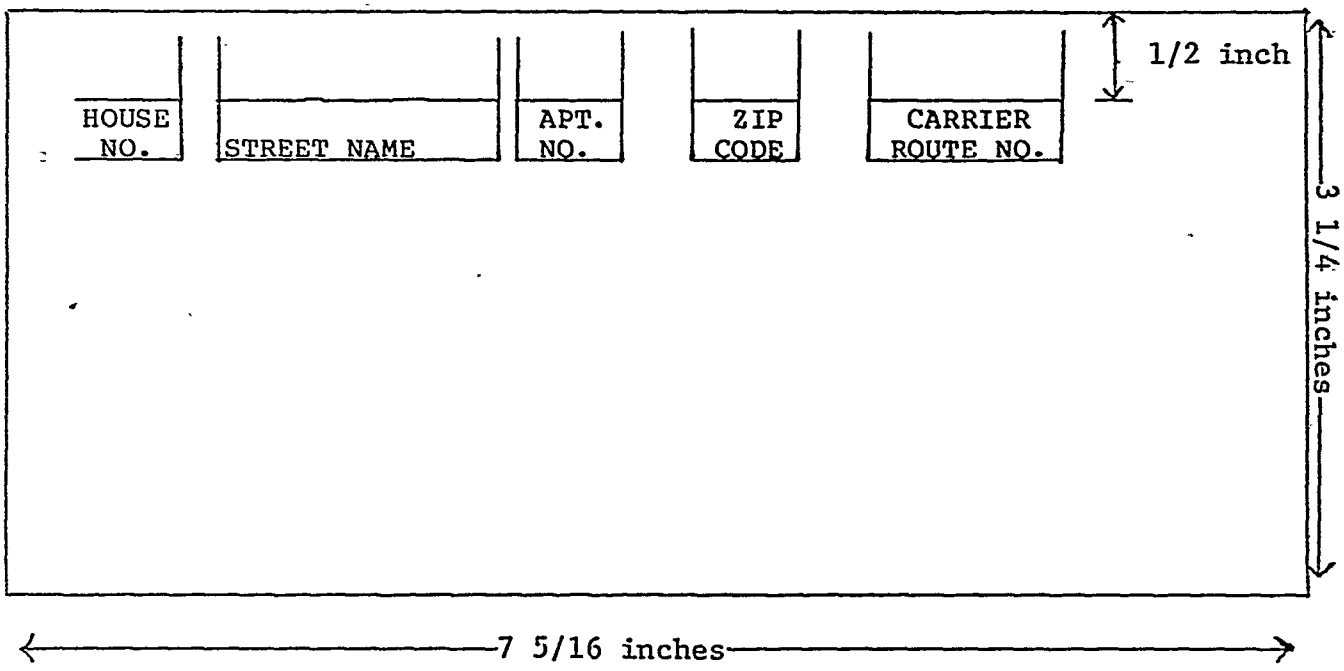
a. *Size.* All cards must be the size of a standard computer card (*i.e.*, 7 and 5/16 inches in length by 3 and ¼ inches in height).

b. *Color.* All address cards must be white or buff colored.

c. *Blank Cards Submitted.* Customers must submit blank cards of a different color for use in correcting addresses and inserting missing or new addresses. Each customer who submits address cards for correction under 945.34 or 945.35 must supply an adequate number of blank cards for the total corrections to be made or blank cards to be added. In all cases the number of cards must be at least 10% of the number of address cards submitted.

d. *Number of Addresses.* Each address card may bear only one address.

e. *Address Format.* The customer's current address information must be computer generated, typed or printed along the top of the front side of the card not more than ½ of an inch from the top edge. Street names may not be abbreviated. However, street designators should bear the abbreviations listed in section 2 of Publication 65, *U.S. Postal Service National ZIP Code and Post Office Directory*. The address must be placed in approximately the same location on each card submitted. The following is an example of the desired card format.



f. Header Cards. Carrier route header cards on standard computer card stock (see 945.32a) must be prepared by typewriter, by computer or printed by the customer and included whenever address cards are submitted. A route header card must be placed in front of the cards for each route. The route header card must be formatted as follows:

BILLING CODE 7710-12-M

CARRIER ROUTE HEADER CARD

*Cards Are: ☐ Resident ☐ Business ☐ Combination of Resident and Business

*LEVEL OF SERVICE REQUESTED:
☐ Sequence Address Cards
☐ Sequence Address Cards, and Show Total Possible Deliveries
☐ Sequence, Update, and Completely Correct Address Cards

A	B	C	D	E	F	G	H	I	J
			NON-CHARGEABLE CORRECTIONS			CHARGEABLE ADDITIONS			
* CARRIER ROUTE NUMBER	* COUNT	CHANGES	MISSING ADDRESSES	NON-EXISTENT ADDRESSES REMOVED	RURAL ADDRESSES CONVERTED	NEW ADDRESSES ADDED	ADDRESSES CORRECTED	TOTAL RETURNED	TOTAL CURRENT POSSIBLE DELIVERIES

COLUMN EXPLANATIONS ARE ON REVERSE SIDE

*To Be Completed By Customer

(REVERSE SIDE)

COLUMN EXPLANATIONS

A. Carrier route number.

B. The number of addresses customer is submitting for the route.

C. The number (indicated with a minus (-) sign) of deliverable addresses which are not deliverable by the designated route carrier. (Carriers will give these cards to their supervisors.) The number (indicated with a plus (+) sign) of deliverable addresses from other routes which are brought to the designated route for sequencing.

D. The number of delivery addresses missing from the submitted list. The carrier will identify these by inserting one blank card per missing address or noting a series of sequenced missing addresses on one blank card. These blank cards are inserted in proper sequence in the address cards submitted by the customer. Use of this column applies to 945.34 service only.

E. The number of non-existent addresses. These are addresses which cannot be corrected and are undeliverable by any carrier. The carrier will remove these address cards, bundle and return to his supervisor.

F. The number of rural addresses converted to city delivery.

G. The number of new addresses not contained in the customer's cards. One card may contain multiple possible deliveries to be counted as one chargeable addition per possible delivery.

H. The number of incorrect addresses which can be corrected (for example, correcting transposed house numbers, misspelled street names, etc.).

I. Total addresses being returned to customer. For 945.33 service (Column B plus or minus column C minus column E). For 945.34 service (Columns B + D plus or minus column C minus column E). For 945.35 service (Columns B + F + G + H plus or minus column C minus column E).

J. The maximum possible delivery count for business and/or residential deliveries including individual apartment units from Form 1621, Carrier Route Report. (Should agree with column I for service provided under 945.34 and 945.35 only.)

BILLING CODE 7710-12-C

g. *Delivery Unit Summary.* Whenever address cards are submitted, the customer must prepare by typewriter, computer or printing and submit an original and one copy of a delivery unit summary form. This form will be used by the Postal Service to provide summary information to the customer and is necessary for the calculation of total charges for the service provided under 945.35. The original will be returned to the customer along with the cards and the copy will be retained by the Postal Service. The following is the required format for the delivery unit summary form:

BILLING CODE 7710-12-M

DELIVERY UNIT SUMMARY

* Customer's name _____

* Mailing address _____

* City/State/ZIP _____

* Customer contact _____

* Telephone No. _____

* Date submitted _____

*LEVEL OF SERVICE REQUESTED:

( ) Sequence Address Cards
( ) Sequence Address Cards and Show Total Possible Deliveries
( ) Sequence, Update, and Completely Correct Address Cards

*Cards are:
( ) Resident
( ) Business
( ) Combination of Resident and Business

COLUMN EXPLANATIONS ARE ON REVERSE SIDE

A	B	C	D	E	F	G	H	I	J
			NON-CHARGEABLE CORRECTIONS			CHARGEABLE ADDITIONS			
* CARRIER ROUTE NUMBER	* COUNT	CHANGES	MISSING ADDRESSES	NON-EXISTENT ADDRESSES REMOVED	RURAL ADDRESSES CONVERTED	NEW ADDRESSES ADDED	ADDRESSES CORRECTED	TOTAL RETURNED	TOTAL CURRENT POSSIBLE DELIVERIES
TOTALS									
CHARGES						X $0.10	X $0.10		

AMOUNT DUE FROM CUSTOMER (Column G + H X $0.10) | + | = $

_____
Date Cards Received

_____
Scheme Date Used

_____
Date Cards Returned

_____
Supervisor's Signature and Date

* To Be Completed By Customer

(REVERSE SIDE)

COLUMN EXPLANATIONS

A. Carrier route number.

B. The number of addresses customer is submitting for the route.

C. The number (indicated with a minus (-) sign) of deliverable addresses which are not deliverable by the designated route carrier. (Carriers will give these cards to their supervisors.) The number (indicated with a plus (+) sign) of deliverable addresses from other routes which are brought to the designated route for sequencing.

D. The number of delivery addresses missing from the submitted list. The carrier will identify these by inserting one blank card per missing address or noting a series of sequenced missing addresses on one blank card. These blank cards are inserted in proper sequence in the address cards submitted by the customer. Use of this column applies to 945.34 service only.

E. The number of non-existent addresses. These are addresses which cannot be corrected and are undeliverable by any carrier. The carrier will remove these address cards, bundle and return to his supervisor.

F. The number of rural addresses converted to city delivery.

G. The number of new addresses not contained in the customer's cards. One card may contain multiple possible deliveries to be counted as one chargeable addition per possible delivery.

H. The number of incorrect addresses which can be corrected (for example, correcting transposed house numbers, misspelled street names, etc.).

I. Total addresses being returned to customer. For 945.33 service (Column B plus or minus column C minus column E). For 945.34 service (Columns B + D plus or minus column C minus column E). For 945.35 service (Columns B + F + G + H plus or minus column C minus column E).

J. The maximum possible delivery count for business and/or residential deliveries including individual apartment units from Form 1621, Carrier Route Report. (Should agree with column I for service provided under 945.34 and 945.35 only.)

BILLING CODE 7710-12-C

h. *Submission of Cards.* Customers must submit the address cards to the manager of the management sectional center (MSC) for carrier routes within the area served by the MSC. The MSC will distribute the cards to the appropriate post office(s) for sequencing and correction. Exception: Address cards that relate only to those addresses in the city in which the mailer is located may be submitted to the postmaster of that city for sequencing and correction.

.33 Sequencing of Address Cards. Postal employees will arrange unsequenced address cards in sequence of carrier route delivery without charge. Cards with incorrect or undeliverable addresses will be removed from the list, bundled separately, and returned to the customer. Complete correction of address cards is provided under 945.35 at a charge. The MSC will return the cards to the customer within 15 working days after receipt of a properly prepared request for address sequencing.

.34 Sequencing of Address Cards with Total Possible Deliveries Shown. Except as provided in 945.35, postal employees will withdraw cards with incorrect addresses and insert a blank card for each existing address that is not included in the customer's address cards. If several addresses in a series are missing, a single blank card will be inserted for the series showing the number of missing addresses. Cards with incorrect or undeliverable addresses will be removed from the list, bundled separately, and returned to the customer. The MSC will return all cards to the customer within 15 working days after receipt of a properly prepared request for address sequencing with the total possible deliveries identified.

.35 Sequencing, Updating, and Complete Correction of Address Cards.

.351 General. Sequencing, updating and providing complete address correction involves:

a. the arrangement of unsequenced address cards in carrier route delivery sequence;

b. the correction of incorrect address cards;

c. the inclusion of omitted addresses from the customer's list including rural address conversions to city delivery;

d. the removal of non-existent addresses which are undeliverable by any carrier. These are bundled separately and returned to the customer.

.352 Additional Requirements. The Postal Service will perform sequencing and a complete correction of a customer's address cards if the customer meets the following additional requirements:

a. *Separate Groups.* Separate groups of address cards must be submitted for the addresses in each 5-digit ZIP Code delivery area.

b. *Mailing Statement.* A mailing statement for each 5-digit ZIP Code area must be submitted by the customer showing:

(1) The types of addresses contained on the cards (*i.e.*, a residence-only grouping, a business-only grouping, or a combination grouping);

(2) The number of addresses contained on the cards; and

(3) The name, mailing address, and phone number of the address list owner or his designated agent.

c. *Mailing List Requirements.* The mailing list which the cards represent must contain:

(1) 90 percent of all residential addresses within the 5-digit ZIP Code area if the addresses are in a residence-only grouping, or

(2) 90 percent of all business addresses within the 5-digit ZIP Code area if the addresses are in a business-only grouping, or

(3) 90 percent of all addresses within the 5-digit ZIP Code area if the addresses are in a combination grouping.

.353 Apartments and Office Buildings. In calculating the total number of addresses within a 5-digit ZIP Code area, each apartment unit or office in an apartment or office building will be treated as a separate address. For each office building or apartment unit with a series of addresses, mailers should submit blank cards suitable for showing both the series of addresses and the total number of individual addresses involved. The following is a suggested format:

NEW ADDRESS CARD

PLEASE USE THIS CARD FOR SERIES ADDRESS CHANGES, NEW ADDRESSES IN SERIES, AND SEASONAL VACANCY CHANGES.

ST NUMBER	ST NAME	APT. NO.	TRAILER NO.	SEASONAL (V)
ST NUMBER	ST NAME	APT. NO.	TRAILER NO.	SEASONAL (V)
ST NUMBER	ST NAME	APT. NO.	TRAILER NO.	SEASONAL (V)
ST NUMBER	ST NAME	APT. NO.	TRAILER NO.	SEASONAL (V)
ST NUMBER	ST NAME	APT. NO.	TRAILER NO.	SEASONAL (V)
ST NUMBER	ST NAME	APT. NO.	TRAILER NO.	SEASONAL (V)

R7833s DO-M15C15

PLEASE—DO NOT WRITE ON REVERSE SIDE

.354 Nonexistent or Undeliverable Addresses. For cards submitted pursuant to 945.352, postal employees will withdraw each card which contains a nonexistent or otherwise undeliverable address. A card showing the correct address will be inserted for each existing address not included in the owner's address cards. Cards showing incorrect addresses will be corrected. The MSC will return the cards to the customers within 15 working days after receipt.

.355 Incorporating Changes. Upon receipt of these returned cards, customers are expected to incorporate the change into their mailings within 60 days.

.356 Resubmission of Address Cards. It is the customer's responsibility to determine when address cards must be submitted for resequencing to maintain the 90% eligibility level of address coverage for each 5-digit ZIP Code area required by 945.351c.

.36 Charges. For each correction made under 945.35 (correction or addition of an address), the charge is $0.10 per correction or addition. The insertion of a blank card under 945.34 is not a chargeable correction. For apartment or office building with a series of addresses for which the Postal Service provides a range of addresses, the charge is $0.10 for each address (possible delivery) in the range or series.

.37 Customer Compliance for Submission of Properly Sequenced Mailings.

.371 General. It is the customer's responsibility to ensure that mailings are prepared in correct carrier route delivery sequence, and to resequence cards whenever necessary. The Postal Service will cease to provide carrier sequencing service to any customer whose mailings are not prepared in correct carrier route delivery sequence.

.372 Verification. Local managers will verify that customers, whose address cards have been arranged in sequences of carrier delivery, are preparing mailing packages for each route with the individual pieces in delivery address sequence.

.373 Changes Affecting Delivery Sequence Only. If delivery changes occur which affect delivery sequence, but do not cause scheme changes, the MSC or local postmaster will notify customers, in writing, of the affected routes and request that they submit their address cards for resequencing. The customer must then submit his entire list or the affected parts of his list for resequencing.

.374 Out-of-Sequence Mailings. If a carrier route sequenced mailing is recieved and it is out-of-sequence, the mailing will be accepted on a *one-time only* basis. The customer will be informed of the error in writing and notified that unless the situation is corrected, the Postal Service will cease to provide carrier route sequencing service.

.38 Carrier Route Presort Mailings.

.381 General. Customers mailing matter at the carrier route presort rate can ensure that they are using the most recent carrier route scheme information by maintaining their address cards in accordance with the procedures in 945.382 and 945.383. Maintenance of address cards in accordance with these procedures will greatly facilitate compliance with carrier route presort preparation requirements, since these changes may not be reflected in the "Official Carrier Route Schemes" which are updated only twice each year.

.382 Requests for Scheme Changes. Upon request, the Postal Service will provide, on a continuing basis, the latest carrier route scheme change information to any customer who meets the requirements of 945.35.

.383 Request Address Cards. Customers receiving scheme change information under 945.382 must promptly submit for resequencing all address cards which are affected by any carrier route scheme change. Cards presented for resequencing must be sorted to the carrier routes as shown in the latest scheme change received by the customer. It is not necessary to submit all cards for a 5-digit ZIP Code area each time a scheme changes or a new official scheme is issued.

.384 Failure to Resubmit Address Cards. If a customer fails to resubmit address cards in a timely manner as required by 945.383, the Postal Service will cease to provide carrier route scheme change information to the customer.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2), 404(a)(2))

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 80-23556 Filed 8-4-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP OF2305/P150; FRL 1560-4]

Nuclear Polyhedrosis Virus of Heliothis Zea Proposed Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that an exemption from the requirement of a tolerance be established for the insecticide nuclear polyhedrosis virus of *Heliothis zea.* This proposal was submitted by Sandoz Inc. This amendment will establish an exemption for the subject pesticide opn all growing crops attacked by larvae of *Heliothis zea* or *Heliothis virecens,* including: beans, corn, lettuce, okra, pepper, sorghum, soybeans, tobacco, and tomato.

DATE: Written comments must be received on or before September 4, 1980

ADDRESS COMMENTS TO: Franklin D.R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-341, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D.R. Gee at the above address. Telephone 202-426-9417.

SUPPLEMENTARY INFORMATION: The Sandoz Inc., Crop Protection, 480 Camino Del Rio South, San Diego, CA 92108 has submitted pesticide petition number PP OF2305 to EPA. This petition requested that the Administrator, pursuant to Section 408(e) of the Federal Food, and Cosmetic Act, establish an exemption from the requirement of a tolerance for residues of the insecticide nuclear polyhedrosis virus of *Heliothis zea* on all growing crops attacked by larvae of *Heliothis zea* or *Heliothis virecens;* including: beans, corn, lettuce, okra, pepper, sorghum, soybeans, tobacco, and tomato.

The toxicology data previously submitted in petitions PP 3F1304, 8F0697, and 8G0697 and all other relevant material have been evaluated. The pesticides are considered useful for the purpose for which the tolerances are sought. Thus, based on the above information considered by the Agency it is concluded that exemptions from the requirement of a tolerance will protect the public health. Therefore, it is concluded that the proposed amendment to 40 CFR 180.1027 be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before September 4, 1980 that the rulemaking proposal be referred to an advisory committee in accordance with Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number, "PP OF2305". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Franklin D.R. Gee, Room 341, East Tower, from 8 a.m. to 4 p.m., Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regultions "specialized". This proposed rule has been reviewed, it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e)))

Dated: July 30, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

It is proposed that Subpart C of 40 CFR Part 180 be amended by revising paragraph (c) of § 180.1027 to read as follows:

§ 180.1027 Nuclear polyhedrosis virus of Heliothis zea; exemption from the requirement of a tolerance.

* * * * *

(c) Exemptions from the requirement of a tolerance is established for the residues of the microbial insecticide nuclear polyhedrosis virus of Heliothis zea, as specified in paragraphs (a) and (b) of this section, in or on all raw agricultural commodities including: corn, cottonseed, beans, lettuce, okra, pepper, sorghum, soybeans, tobacco, and tomato.

[FR Doc. 80-23548 Filed 8-4-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 717

[FRL 1483-4; OTS-83001A]

Toxic Substances Control Act; Records and Reports of Allegations of Significant Adverse Reactions to Health or the Environment; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; corrections.

SUMMARY: These are corrections to a proposed rulemaking requiring manufacturers, processors, and distributors of chemical substances or mixtures to record and report allegations of "significant adverse reactions" caused by such substances or mixtures published at 45 FR 47008, July 11, 1980.

DATES: Comments on this proposed rulemaking must be received on or before October 9, 1980.

ADDRESSES: Comments should bear the document control number OTS-83001A and should be submitted to the Document Control Officer, Chemical Information Division, Office of Pesticides and Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. All written comments concerning this notice will be available for public inspection in the OPTS Reading Room, 447 East Tower, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 800-424-9065; in Washington call 554-1404.

SUPPLEMENTARY INFORMATION: On July 11, 1980, EPA published in the Federal Register [45 FR 47008] a proposed rulemaking to require manufacturers, processors, and distributors of chemical substances and mixtures to record and report allegations of significant adverse reactions caused by such substances or mixtures. The corrections to the proposed rulemaking are as follows:

(a) Page 47009, second column, first paragraph, line ten, the words "see item 2" should read "see item 6".

(b) Page 47011, third column, second paragraph, line nineteen, the words "see item 4" should read "see items 4, 5, and 6".

(c) Page 47012, second column, first paragraph, line eleven, the figure "$22,500" should read "$22.50".

(d) Page 47019, first column, the words "Appendix II" should be inserted at the top of the column.

(e) Page 47020, second column, first paragraph, lines three and four, the words "Paragraphs two and three below (p. 10)" should read "Paragraphs two and three below (p. 47021)".

(f) Page 47020, second column, first paragraph, line eleven, the words "paragraph 4 (p. 14)" should read "paragraph 4 (p. 47021)".

(g) Page 47020, second column, second paragraph, line three, the parenthetical "(p. 8)" should read "below".

(h) Page 47021, third column, first paragraph under the heading "3. Recordkeeping Cost Estimates", line one, the parenthetical "(p. 6)" should be deleted.

(i) Page 47022, first column, first paragraph, line four, the parenthetical "(p. 8)" should be deleted.

Dated: July 23, 1980.

Jeanette A. Wiltse,

Chief, Rules Development Branch.

[FR Doc. 80-23508 Filed 8-4-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5869]

National Flood Insurance Program; Proposed Flood Insurance Risk Zone Modification for the City of Jacksonville, Duval County, Fla.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed Flood Insurance Risk Zone modification described below.

The proposed Flood Insurance Risk Zone modification, if finalized, will be the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period of comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Any reports and other information used in making the final determination will be made available for public inspection upon request and will be held by Bessent, Hammack and

Ruckman, Incorporated, Jacksonville, Florida.

Send comments to: The Honorable Jake M. Godbold, Mayor, City of Jacksonville, 220 East Bay Street, Jacksonville, Florida 32202.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6570 or toll free line, (800) 424-8872 or (800) 424-8873.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the request to modify the established Flood Insurance Risk Zones along Sawmill Slough and adjacent low-lying areas in Central Park, Jacksonville, Florida, to reflect the development's drainage improvement project upon its completion. This notice is given in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128 and 44 CFR 67.4(a)).

The proposed Flood Insurance Risk Zone modification, if finalized, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed Flood Insurance Risk Zones will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents when the zone designations are finalized.

The proposed Flood Insurance Risk Zone modifications for Central Park, upon completion of the drainage improvement project are:

Source of flooding	Location	Zone
Sawmill Slough	East of Saint John's Bluff Road and South of Beach Boulevard.	B

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: July 22, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-23480 Filed 8-4-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5815]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Brecknock, Berks County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the Federal Register at 45 FR 29098 on May 1, 1980, and in the *Reading Eagle Times,* on April 3, 1980, and April 10, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Brecknock Municipal Building.

Send comments to: Honorable Mark Stauffer, Chairman of the Brecknock Board of Supervisors, R.D. 3494, Mohnton, Pennsylvania 19540.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426-1460 or Toll Free Line (800) 424-8872, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of Brecknock, Berks County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Muddy Creek	Downstream Corporate Limits.	*497
	Approximately 1,500' downstream of Maple Grove Rd.	*502
	Upstream side of Maple Grove Road.	*508
	Culvert outlet of Maple Grove Drag Strip.	*514
	Culvert inlet of Maple Grove Drag Strip.	*520
	Approximately 2,800' upstream of Maple Grove Drag Strip.	*524
	Approximately 3,600' upstream of Maple Grove Drag Strip.	*528
Alleghany Creek.	Approximately 1,200' downstream of Subdivision Road.	*491
	Approximately 800' downstream of Subdivision Road.	*497
	Approximately 250' downstream of Subdivision Road.	*493
	Culvert inlet of Subdivision Road.	*502
	Approximately 800' upstream of Subdivision Road.	*508
	Culvert outlet at Kurtz Mill Road.	*520
	Culvert inlet of Township Parking Lot.	*528
	Approximately 500' upstream of Township Parking Lot Culvert inlet.	*531
Tributary No. 2	Upstream of Store Road	*398
	Approximately 600' upstream of Store Road.	*405
	Approximately 1,000' upstream of Store Road.	*411
	Approximately 1,400' upstream of Store Road.	*419
	Approximately 1,600' upstream of Store Road.	*425
	Approximately 2,200' upstream of Store Road.	*420
Tributary No. 3	Approximately 300' downstream of Kramer Road.	*480
	Upstream of Kramer Road	*480
	Approximately 400' upstream of Kramer Road.	*493
	Approximately 900' upstream of Kramer Road.	*500
	Approximately 1,100' upstream of Kramer Road.	*508

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
	Culvert outlet of Private Lane, approximately 1,230' upstream of Kramer Road.	*512
	Culvert inlet of Private Lane, approximately 1,300' upstream of Kramer Road.	*517
	Approximately 1,500' upstream of Kramer Road.	*525
	Approximately 2,050' upstream of Kramer Road.	*541
	Approximately 2,500' upstream of Kramer Road.	*557
	Approximately 3,000' upstream of Kramer Road.	*574
	Approximately 3,200' upstream of Kramer Road.	*585
	Culvert inlet of Private Lane, approximately 3,250' upstream of Kramer Road.	*590
	Approximately 3,500' upstream of Kramer Road.	*601

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator).

Issued: July 23, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-23484 Filed 8-4-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5828]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Milaca, Mille Lacs County, Minnesota.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *Mille Lacs County Times* on May 15, 1980 and May 22, 1980, and at 45 FR 37233 on June 2, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Milaca, Mille Lacs County, Minnesota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD).
Minnesota	(C) Milaca, Mille Lacs County	Rum River	At downstream corporate limit	*1,041
			About 5,000 feet upstream of dam	*1,055

Maps available at City Hall, 145 South Central, Milaca, Minnesota. Send comments to Honorable Joseph Anfinnson, Mayor, City of Milaca, City Hall, 145 South Central, Milaca, Minnesota 56353.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: July 22, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-23482 Filed 8-4-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5768]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Alsace, Berks County, Pennsylvania, previously published at 45 FR 3610 on January 18, 1980.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of

Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Alsace, Berks County, Pennsylvania, previously published at 45 FR 3610 on January 18, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

In order for the following locations to be more easily identified with the corresponding Flood Insurance Map and profile for Antietam Creek, the descriptions should be amended to read as follows: The elevations are corrected as cited.

Source of flooding	Location	*Elevations in feet (NGVD)
Antietam Creek.	Approximately 1,450' downstream from Seidel Road.	*580
	Approximately 1,050' downstream from Seidel Road.	*595
	Approximately 750' downstream from Seidel Road.	*602
	Approximately 300' downstream from Seidel Road.	*610

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator).

Issued: July 23, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-23483 Filed 8-4-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5778]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Woodbridge, New Haven County, Connecticut, previously published at 45 FR 9036 on February 11, 1980.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080) Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Woodbridge, New Haven County, Connecticut, previously published at 45 FR 9036 on February 11, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Under the Source of Flooding of Wepawaug River, the location described as "2,150 feet downstream of Racebrook Road" should be amended to agree with the corresponding Flood Insurance Map and profile. It should be listed as "2,150 feet upstream of Racebrook Road," with an elevation of 215 feet (NGVD).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator.

Issued: July 23, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-23481 Filed 8-4-80; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (Sub-No. 2)]

49 CFR Part 1102

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of due date for filing reply comments in advance notice of proposed rulemaking proceeding.

SUMMARY: At 45 FR 29103, May 1, 1980, the Commission proposed to modify its procedures for the filing of railroad general rate increases. Comments were due and were filed in this proceeding on July 17, 1980. On July 16, we authorized the filing of reply comments, due August 6. However, that authorization was not published in the Federal Register until July 23 (45 FR 49118), and some participants were not aware of the reply opportunity until that time. Considering the importance of the proceeding, and the length and complexity of the comments, we will extend the reply period to August 20, 1980.

DATE: Reply comments are now due August 20, 1980.

ADDRESS: An original and 15 copies of replies should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder—(202) 275-7693.

Decided: July 29, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23453 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 265

Study Draft—U.S. General Standards for Grades of Shrimp; Advance Notice of Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service, U.S. Department of Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, has a study draft available for review and comment in its consideration of establishing grading standards for all forms of shrimp except breaded shrimp. This study draft is based upon the Codex Alimentarius Standard for Frozen Shrimp as approved by the Codex Alimentarius Commission.

DATE: Comments must be received on/or before October 1, 1980.

ADDRESS: Send your request for study draft and comments to: Thomas J. Billy, Chief, Seafood Research, Inspection and Consumer Services Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone (202) 634-7458.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Brooker, Chief, Standards, Specifications and Labeling Branch, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634-7458.

SUPPLEMENTARY INFORMATION: The Quality Standards for frozen raw

headless shrimp were developed in the early 1960's. Since the grade standards were promulgated, a number of industry-wide changes have taken place:

1. Market forms have shifted significantly to peeled and deveined shrimp, both raw and cooked, for which there are no standards (quality or regulatory).

2. There have been numerous technological changes in the handling and processing of shrimp products.

3. The Codex Alimentarious Commission has approved a Recommended International Standard for Quick Frozen Shrimp and has invited countries to adopt it.

4. An Advisory Code of Practice for shrimp has been approved by the Codes Commission.

Public requests have been received for the development of standards covering peeled and deveined shrimp, both raw and cooked, as well as other forms of shrimp. Requests have also been received for revision of the frozen raw headless shrimp standard. Additionally, the approval of the Codes Alimentarius standard for Quick Frozen Shrimp by the Codex Commission provides a framework for preparation of a general standard covering all forms of shrimp. This study draft represents a document based upon these considerations.

Dated: June 25, 1980.

Winfred H. Meibohm,

Executive Director.

50 CFR Part 265 is proposed to be amended by deleting Subpart A in its entirety and inserting in lieu thereof the following Subpart A:

PART 265—UNITED STATES STANDARDS FOR GRADES OF CRUSTACEAN SHELLFISH PRODUCTS

Subpart A—U.S. General Standards for Grades of Shrimp

Sec.

Authority: 7 USC 1621–1630.

Subpart A—U.S. General Standards for Grades of Shrimp

§ 265.101 Scope and product description.

This Standard shall apply to clean, wholesome shrimp of the regular commercial species that are fresh or frozen, raw or cooked. Such shrimp are processed in accordance with Good Manufacturing Practices and are maintained at temperatures necessary for the preservation of the product.

§ 265.102 Product forms.

(a) Types.

(1) Fresh.

(2) Frozen Individually (IOF), glazed or unglazed.

(3) Frozen Solid Pack, glazed or unglazed.

(b) Styles.

(1) Raw (uncoagulated protein).

(2) "Parboiled"—heated for a period of time such that the surface of the product reaches a temperature adequate to coagulate the protein.

(3) "Cooked"—heated for a period of time such that the thermal centre of the shrimp reaches a temperature adequate to coagulate the protein.

(c) Market Forms.

(1) Heads on (head, shell, tailfins on).

(2) Headless (head removed, shell, tailfins on).

(3) Peeled, round, tail off (all shell and tailfins removed with segments unslit and vein not removed).

(4) Peeled, round, tail on (all shell except last shell segment and tailfins removed, with segments unslit and vein not removed).

(5) Peeled and deveined, round, tail off (all shell and tail fins removed with segments shallowly slit to last segment and vein removed to last segment).

(6) Peeled and deveined, round, tail on (all shell removed except last shell segment and tail fins with segments shallowly slit to last segment).

(7) Peeled and deveined, fantail or butterfly, tail off (all shell and tail fin removed with segments deeply slit to last segment).

(8) Peeled and deveined, fantail or butterfly, tail on (all shell removed except last shell segment and tail fins, with segments deeply slit to last segment and vein removed to last segment).

(9) Peeled and deveined, western (all shell removed except last shell segment and tail fins, with segments split completely to last segment and vein removed to last segment).

(10) Shell on pieces (head removed, shell and tail fins when existing not removed).

(11) Peeled and deveined, round pieces (all shell removed with segments shallowly slit except last segment when existing, vein removed except last segment when existing.

(12) Peeled and deveined butterfly pieces (all shell removed with segments deeply slit except last segment when existing, and vein removed except last segment when existing).

§ 265.103 Methods of analysis.

(a) "Drained weight" of raw shrimp samples is determined by method 18.015 and 18.016 of The Association of Official Analytical Chemists as set forth below.

(1) Equipment needed:

(i) Shrimp container—Wire mesh basket large enough to hold contents of one package with openings small enough to retain all pieces. Expanded metal test tube basket, or equivalent, fully lined with standard 16 mesh per linear inch. Insect screen is satisfactory.

(ii) Water container—capacity of four gallons (15 liters) or more.

(iii) Source of running water that can be maintained at 80±5 F° (26±3°C) with hose of sufficient length to reach the bottom of the water container.

(iv) Balance—sensitive to 0.01 ounce or 0.25 gram.

(v) Sieves—U.S. standard number (8), wire sieve 12 inches (30 centimeters) diameter.

(2) Procedure:

Place contents of individual package in wire mesh basket and immerse in at least 4 gallons (15 liters) of fresh water at 80°±5°F (26°±3°C) so that top of basket extends above water level. Introduce water of same temperature at bottom of water container at flow rate of 1–3 gallons (4–11 liters) per minute. *As soon as product thaws* (as determined by loss of rigidity), transfer all material to 12-inch diameter number 8 sieve and distribute evenly. Incline sieve to about 20 degree angle from horizontal to facilitate drainage. Two minutes from time placed on sieve, transfer product to previously weighed pan and weigh. Weight so found minus weight of pan is drained weight of product.

(b) "Drained weight" of cooked shrimp is determined by the following method:

Procedure:

(1) Weigh product free of all wrappings and record weight. Place product in a container containing an amount of fresh potable water 80°F (27°C) equal to 8 times the declared weight of the product. If product is block frozen, turn block over several times during thawing. The point at which thawing is completed can be determined by gently probing the block apart.

(2) Weigh a dry clean U.S. standard number (8) wire sieve.

(i) If the quantity of the total contents of the package is 1 pound or less, use a sieve with a diameter of 8 inches (20 centimeters).

(ii) If the quantity of the total contents of the package is over 1 pound, use a

sieve with a diameter of 12 inches (30 centimeters).

(3) After all the glaze that can be seen or felt has been removed and the shrimp or prawns separate easily, empty the contents of the container on the previously weighed sieve. Incline the sieve at an angle of about 20° and drain for two minutes.

(4) Weigh the sieve containing the drained product. Subtract the mass of the sieve; the resultant figure shall be considered to be the net contents of the package.

(c) "Cooked in a suitable manner" (cooked style excepted) means that a thawed sample of the product has been cooked as follows: Place 2 to 4 ounces of shrimp in a saucepan with 1 pint of water and 1 teaspoon of salt (optional). Cook until internal temperature reaches 160°F (70°C). Drain and cool without rinsing and check for flavor, odor, and texture.

§ 265.104 Definitions.

(a) "Dehydration" refers to the occurrence of a whitish area on the exposed ends of the shrimp (due to the drying of the affected area) and to a generally desiccated appearance of the meat after the shell and glaze are removed. It is evaluated by noting any detectable change from the normal characteristic, bright appearance of freshly caught, properly iced, or properly processed shrimp.

(1) Slight dehydration means that over 5 and up to 10 percent by count of the frozen shrimp and up to 2.0 percent of thawed shrimp by count are affected by dehydration.

(2) Moderate dehydration means that over 10 percent and up to 15 percent by count of frozen shrimp and from 2.0 to 5.0 percent by count of thawed shrimp are affected by dehydration.

(3) Severe dehydration means that over 15 percent by count of frozen shrimp and over 5 percent by count of thawed shrimp are affected by dehydration.

(b) "Deterioration" refers to a reduction of the normal good quality of freshly caught, properly iced, or properly processed shrimp.

(1) Slight deterioration means that overall the sample unit lacks the normal characteristic pleasant odor of freshly caught, properly iced, or properly processed shrimp but does not affect the desirability and/or eating quality of the shrimp.

(2) Moderate deterioration means that overall the sample unit has scarcely noticeable but definite odors of prolonged storage and/or off odors that materially affect the desirability and/or eating quality of the shrimp.

(3) Excessive deterioration means that the individual shrimp within the sample unit have a definite odor of spoilage. Deductions in this category are made for individual shrimp affected.

(c) "Count" refers to the number of shrimp per pound and is determined by dividing the number of shrimp in the adjusted sample unit by the adjusted weight in pounds. If a sample unit does not conform to the declared count, it is a mixed lot and cannot be graded above substandard.

(1) Adjusted weight means only the weight of all of the whole, unbroken, undamaged shrimp in the sample unit. It is determined by deleting the weight of the shrimp pieces, broken and damaged shrimp, unacceptable shrimp, extraneous material, heads (heads-on excepted), legs (heads-on market form excepted), loose shell, swimmerets, flippers, and antennae from the net weight of the sample unit.

(2) Adjusted sample unit refers only to the shrimp comprised in the adjusted weight.

(d) Broken, damaged, and pieces.

(1) Broken refers to a shrimp having a break in the flesh greater than ⅓ of the thickness of the shrimp at the particular location at which it occurs.

(2) Damaged refers to a shrimp that is crushed or mutilated so as to materially affect its appearance and/or usability.

(3) Piece refers to any portion of shrimp that contains less than 5 segments with or without tail fins attached, for count of unglazed shrimp 70 or less/pound and shrimp that contains less than 4 segments for count of unglazed shrimp over 70/pound, or any whole shrimp with a break in the flesh greater than ⅔ of the thickness of the shrimp at the particular location at which it occurs.

(4) Unusable material (legs, flippers, loose shell, antennae, heads, swimmerets, extraneous material, and unacceptable shrimp).

(1) Legs refers to walking legs only; but if attached, should be detached (heads-on market form excepted) and weight thereof evaluated.

(2) Loose shell and antennae refer to any piece of shell or antennae which is completely detached from the shrimp.

(3) Flipper refers to the tail fin with or without the last shell segment attached, with or without flesh.

(4) Head refers to any portion of the head (cephalothorax) if attached should be detached (heads-on shrimp excepted) and weight thereof evaluated.

(5) Extraneous material means any material in the sample unit which is not shrimp material but which is harmless if eaten.

(6) Unacceptable shrimp refers to abnormal or diseased shrimp.

(f) Uniformity of size is determined as follows:

(1) Use the adjusted sample unit for the examination.

(2) Visually select and weigh not more than 10% by count of the largest shrimp.

(3) Visually select and weigh not more than 10% by count of the smallest shrimp.

(4) Divide the weight of the largest shrimp by the weight of the smallest shrimp, and the result will be the uniformity ratio.

(g) Black spot refers to any objectionable black or darkened area that affects the desirability and/or eating quality of the shrimp. It is evaluated by noting the percent by count of affected shrimp in the sample unit.

(h) "Peeled and deveined" means that the head, shell segments, swimmerets, tail fins, and alimentary canal (vein) have been removed as outlined under § 265.102(c). (Peeling and deveining are grouped together as one class of defect and evaluated by noting the percent by count of affected shrimp in the sample unit.)

(1) Inadvertently or improperly peeled refers to a shrimp with any shell or shell fragments missing or intact other than as outlined under § 265.102(c). (Shell-on pieces excepted.)

(2) Improperly deveined refers to a shrimp with any attached black or dark vein other than as outlined under § 265.102(c).

(i) Flavor and odor is evaluated after the product has been cooked in a suitable manner (cooked style evaluated as is).

(1) Good flavor and odor means that the product has the normal pleasant flavor and odor characteristic of freshly caught shrimp that is free from off flavors and odors of any kind.

(2) Reasonably good flavor and odor means that the product may be somewhat lacking in good flavor and odor characteristic of freshly caught shrimp but is free from objectionable off flavors and odors of any kind.

(j) "Texture" refers to the toughness, tenderness, softness, or firmness of the product. It is evaluated in noting the deviations from the normal characteristics of the species when freshly caught, properly processed, and cooked.

§ 265.105 Sample unit size and sampling rate.

The sample unit size and sampling rate of specific lots shall be in accordance with the appropriate sampling plan. Part 260, Subpart A of

this chapter (Regulations Governing Processed Fishery Products).

§ 265.106 Grades.

(a) U.S. Grade A shrimp shall:

(1) Possess good flavor and odor;

(2) Comply with limits for U.S. Grade A quality as outlined in § 265.107 Table I.

(3) Contain only class 1 shrimp.

(b) U.S. Grade B shrimp shall:

(1) Possess reasonably good flavor and odor;

(2) Comply with limits for U.S. Grade B quality as outlined in § 265.107 Table I.

(3) Contain not more than 3 percent class 2 shrimp in 50 percent or less of the sample units.

(c) U.S. Grade C shrimp shall:

(1) Possess reasonably good flavor and odor;

(2) Comply with limits for U.S. Grade C quality as outlined in § 265.107 Table I.

(3) Contain not more than 10 percent class 2 shrimp and not more than 1 percent class 3 shrimp in 50 percent or less of the sample units.

(d) Substandard shrimp shall:

(1) Posses minimal acceptable flavor and odor characteristic of the species.

(2) Fail to meet the requirements for U.S. Grade C as outlined in § 265.107 Table I.

(3) Meet FDA's Defect Action Level.

§ 265.107 Factors of quality to be evaluated for grade compliance.

(a) Dehydration

(b) Uniformity of size

(c) Black spot and muddy ends

(d) Pieces

(e) Damaged and broken

(f) Legs, loose shell, antennae, flippers, extraneous material, heads, or unacceptable shrimp

(g) Improperly peeled, Inadvertently peeled, and Improperly deveined

(h) Texture

(i) Flavor and odor (prerequisite)

Each defect except flavor and odor, is classified to its relative severity as minor, major, or serious in Table I.

§ 265.108 Grade compliance.

Tolerances for the various defects are set for each grade classification in Table II.

§ 265.109 Tolerances for certification of officially drawn samples.

The grades of specific lots shall be certified in accordance with Part 260, Subpart A of this chapter (Regulations Governing Processed Fishery Products).

Appendix—Defect Action Levels

The U.S. Food and Drug Administration has established a criteria for legal action against shrimp, fresh or frozen, raw, or cooked, due to decomposition.

Organoleptic examination employing the physical sense of smell is used in determining the class of decompositon in shrimp products.

The following classifications are used to judge each shrimp (or portion) examined:

Class 1 (Passable). This category includes fishery products that range from very fresh to those that contain fishy odors or other odors characteristic of the commercial product; but these odors are not definitely identifiable as those decomposition.

Class 2 (Decomposed)—slight but definite. This is the first stage of definitely identifiable decomposition. An odor is present that is not really intense, but is persistent and readily perceptible to the experienced examiner as that of decomposition. Shrimp in this category are not acceptable for human consumption.

Class 3 (Advanced Decomposition). The product possesses a strong odor of decomposition which is persistent, distinct and unmistakable. Shrimp in this category are not acceptable for human consumption.

Each subdivision of the sample (package, carton or container) should be examined separately. Segregate the examined portion into various classes on the basis of odor. A sub shall be classified as decomposed: If five percent (5%) or more of the shrimp are Class 3; or if twenty percent (20%) or more of the shrimp are Class 2; or if the percentage of Class 2 shrimp plus 4 times the percentage of Class 3 shrimp equals or exceeds twenty percent (20%).

Percentages may be reported on the basis of either count or weight when the shrimp are uniform in size, and on a weight basis when the shrimp are non-uniform in size.

Table

Lot size number of shipping cases or cartons	Number subs examined	Number of reject subs required for legal action
1 to 20	6	2
21 to 100	12	3
101 and over	18	4

Table I.—*Classification of Defects*

Defect	Degree	Points assigned: Minor	Major	Serious
1. Dehydration, desiccation	Slight	1		
	Moderate		2	
	Excessive			4
2. Uniformity, ratio of weight as defined in section 265.103	1.60–1.99	1		
	2.00–2.25		2	
	over–2.25			4

Table I.—*Classification of Defects*—Continued

Defect	Degree	Points assigned: Minor	Major	Serious
3. Deterioration	Slight	1		
	Moderate		2	
	Excessive			4
4. Black spot and muddy ends	From 1 to 4% (by count)	1		
	Less than 6% (by count)		2	
	More than 6% (by count)			4
5. Pieces	From 1 to 2% (by weight)	1		
	From 2 to 3% (by weight)		2	
	More than 3% (by weight)			4
6. Damaged and broken	From 2–4% (by weight)	1		
	From 4–10% (by weight)		2	
	More than 10% (by weight)			4
7. Legs, loose shell, antennae, flippers, extraneous material, heads, or unacceptable shrimp	From 1 to 2% (by weight)	1		
	From 2 to 3% (by weight)		2	
	More than 3% (by weight)			4
8. Improperly peeled, inadvertently peeled and improperly deveined	From 1 to 6% (by count)	1		
	Less than 10% (by count)		2	
	More than 10% (by count)			4
9 Texture	Slight	1		
	Moderate		2	
	Excessive			4

Table II.—*Tolerances for Various Defects*

Combined minor and major defects	Serious defects
U.S. Grade A	
Up to 5 points	None.
U.S. Grade B	
Up to 9 points	None.
U.S. Grade C	
Up to 13 points	Up to 4 points.

[FR Doc. 80-23447 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 661

Commercial and Recreational Salmon Fisheries Off the Coasts of Oregon, Washington, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of preliminary projection of recreational coho catches.

SUMMARY: The Director, Northwest Region, National Marine Fisheries Service, in accordance with 50 CFR 661.12, has evaluated the latest catch information for the recreational salmon fishery and has preliminarily found that the projected ocean harvest of coho salmon by the recreational fishery has already exceeded 240,000 coho in the Oregon Production Index and will exceed 347,000 coho in the Washington Production Projection Regulatory Area by the end of the season (September 14, 1980). The purpose of this finding is to determine whether the recreational bag limit for coho salmon should be reduced from three to two fish per day.

PUBLIC COMMENTS: Public comments are invited until August 6, 1980.

ADDRESS: Comments may be sent to: Dr. Thomas E. Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109, Telephone: (206) 442–7575.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Kruse at the above address.

SUPPLEMENTARY INFORMATION: The final regulations implementing the FMP at 50 CFR 661, were filed with the Federal Register on July 29, 1980. They specify in § 661.12(a) that the Regional Director (RD) of the Northwest Regional Office, NMFS, on August 7, may reduce the recreational daily catch limit of salmon from three fish to two fish in any portion of subareas A, B, or C by issuing a Field Order if the RD finds that: (1) the total catch by the recreational fishery in the Washington Production Projection (WPP) Regulatory Area (as defined in § 661.5(v)) will exceed 333,000 (adjusted upward to 347,000 by Washington Department of Fisheries on May 21, 1980) coho salmon by or before September 14 or, (2) if the total catch by the recreational fishery in the Oregon Production Index (OPI) Regulatory Area (as defined in § 661.5(l)) will exceed 240,000 coho salmon by or before September 14.

According to § 661.12(c)(1)(i) of the regulations, preliminary projections are to be made on July 29 based on the following criteria:

(A) Coho salmon stock abundance, as updated during the season, in the WPP Regulatory Area and the OPI Regulatory Area; and

(B) Catch and effort in the recreational fishery to date; and

(C) The trends in recreational fishing efforts to date compared to average efforts as specified in subparagraphs (c)(2)(ii) (A) and (B) of this section and projected effort to September 14.

The Washington Department of Fisheries (WDF) estimates the catch of coho salmon in the WPP area through July 13, 1980 by the ocean recreational fishery to be 228,000 fish. Furthermore, WDF projects that the ocean recreational fishery catch of coho will exceed 347,000 fish by the end of the season on September 14th. The preseason estimates of total allowable U.S. ocean harvest in the WPP areas as adjusted upward by WDF (from 833,000 to 857,000 coho) remains the best assessment of coho abundance. Two or three week's of troll catch and effort data following the beginning of commercial coho fishing in WPP area on July 15 may, however, lead to further refinement of this estimate.

The Oregon Department of Fisheries and Wildlife (ODFW) estimates the catch of coho salmon in the OPI area through July 13, 1980 by the ocean recreational fishery to be 325,000 fish. Thus the target harvest of 240,000 fish has already been exceeded. The data presently available from the Oregon and Washington recreational fisheries, however, suggest that the preseason point estimate of total allowable U.S. ocean harvest of coho in the OPI area might be low. Both ODFW and WDF have indicated that additional data, particularly with respect to tag returns and troll catch and effort after July 15, are needed to determine the accuracy of the preseason estimates. An assessment should be possible about August 7. Final catch of both the recreational and troll fisheries will depend on this inseason reassessment of abundance in the OPI.

The RD has reviewed the most recent recreational harvest data for Washington and Oregon and concurs with the conclusions drawn from that data.

In accordance with § 611.12(c)(4) of the final regulations, the RD finds that a public comment period ending August 6 would be in the best interests of the public and the resource prior to publishing the final projections. Relevant data on which these preliminary projections are based may be reviewed at the offices of the RD (address above) during the comment period.

As a result of comments received during the public comment period, the RD will consider further the necessity for reducing the daily catch limit and, as soon as practicable, published in the Federal Register either: (a) a notice of final rulemaking that reduces the daily recreational catch limit from three fish to two fish, or (b) a notice of no change in the three fish bag limit.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C. this 30th day of July, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-23539 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 152
Tuesday, August 5, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Lewis and Clark National Forest Grazing Advisory Board; Meeting

The Lewis and Clark National Forest Grazing Advisory Board will meet at 9:00 a.m., September 18, 1980, at the District Ranger's Office, White Sulphur Springs Ranger District, White Sulphur Springs, Montana.

The purpose of the meeting is to review the Lewis and Clark National Forest's range improvement program and allotment management planning system with the Advisory Board, and to look at some of the improvements and allotments in the field. The meeting will include discussion of how the range improvements scheduled are coordinated with the allotment management plans. Costs and benefits anticipated for each improvement will be outlined.

Allotment management plans and range improvements scheduled and proposed for fiscal year 1981 will be reviewed with the Advisory Board by a representative from each Ranger District on the Forest.

The meeting will be open to the public. Persons who wish to attend should notify George McCafferty, Chairman of the Board, 409a 46th Street South, Great Falls, Montana 59405, telephone 452–0603; or Darrol L. Harrison, Lewis and Clark National Forest, Box 871, Great Falls, Montana 59403, telephone 453–7678. Written statements may be filed with the Board before or after the meeting.

Dated: July 25, 1980.

Dale Gorman,

Forest Supervisor.

[FR Doc. 80-23468 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Glacier State Telephone Co., Anchorage, Alaska; Proposed Loan Guarantee

Under the authority of Pub. L. 93–23 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the Federal Register, September 16, 1974 (Vol. 39 No. 180, pages 33228–33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the Approximate amount of $27,353,000 to Glacier State Telephone Company of Anchorage, Alaska. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. A. W. Shuman, President, Glacier State Telephone Company, 1621–114th Avenue, SE, Building Seven, Suite 200, Bellevue, Washington 98004.

To assure consideration, proposals must be submitted on or before September 4, 1980, to Mr. Shuman. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Glacier State Telephone Company and REA deem appropriate. Prospective lenders are advised that it is anticipated that financing for this project will be available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 28th day of July, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-23474 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-15-M

North Carolina Electric Membership Corp.; Saluda River Electric Cooperative, Inc.

Notice is hereby given that the Rural Electrification Administration (REA) has issued a draft Supplemental Environmental Impact Statement (DSEIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with possible financing assistance to North Carolina Electric Membership Corporation (NCEMC), P.O. Box 27306, Raleigh, North Carolina 27611, and to Saluda River Electric Cooperative, Inc. (Saluda River), 207 Sherwood Drive, Laurens, South Carolina 29360.

The Duke Power Company is presently constructing the Catawba Nuclear Station, consisting of two 1145 MW (net) units in York County, South Carolina. The proposed financing assistance will provide for an undivided ownership interest by NCEMC of 56.25 percent (644 MW) and by Saluda River of 18.75 percent (215 MW) in the 1145 MW (net) Catawba Nuclear Station Unit 1. NCEMC and Saluda River also propose to own 28.125 percent and 9.375 percent, respectively, of the support facilities common to both units of the Catawba Nuclear Station.

The alternatives considered were No Action, Joint Venture, as described above, and Alternative Forms of Generation such as coal, wood, oil, peat, gas, solar, wind, and hydroelectric. REA has determined that the only viable alternatives available are No Action and Joint Venture. Since the Joint Venture offers potential economic advantages to the cooperatives, participation by the cooperatives in Catawba Unit 1 is the REA preferred alternative.

The U.S. Atomic Energy Commission (currently the Nuclear Regulatory Commission (NRC)) issued a Final Environmental Statement (FES) relating to the Catawba Nuclear Station Units 1 and 2 in December 1973. It is REA's decision to adopt the previously issued NRC–FES in its entirety and to issue a DSEIS to provide information on certain

environmental aspects of the project which are normally addressed by REA but were not included in the NRC–FES. REA's DSEIS also provides information relating specifically to the proposed financing assistance to NCEMC and Saluda River for participation in Unit 1.

Additional information may be obtained by request submitted to the Rural Electrification Administration, U.S. Department of Agriculture, Washington D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies, having jurisdiction by law or special expertise with respect to any environmental impact, from which comments have not been requested specifically.

Copies of the REA DSEIS have been sent to various Federal, State and local agencies. The DSEIS may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Room 5829, Washington, D.C., or at the headquarters of NCEMC, P.O. Box 27306, Raleigh, North Carolina 27611, or Saluda River at 207 Sherwood Drive, Laurens, South Carolina 29360. Limited supplies of the DSEIS are available for mailing, upon request to REA.

Comments concerning the environmental impact of the proposed REA financing assistance should be addressed to the Director, Power Supply Division, at the address given above. Comments must be received on or before October 6, 1980, to be considered in connection with the proposed financing assistance.

Any financing assistance which may be made pursuant to this proposal will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969, and other environmentally related statutes, regulations, Executive Orders and Secretary's Memoranda normally considered by REA.

Dated at Washington, D.C. this 25 Day of July 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-23152 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended July 25, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
July 21, 1980	36434	Frontier Airlines, Inc., 8250 Smith Road, Denver, Colorado 80207. Corrected Conforming Application of Frontier Airlines, Inc. requests an amendment of its certificate of public convenience and necessity for Route 73 to authorize nonstop service between Denver, Colorado on the one hand, and Sioux Falls, South Dakota, on the other hand. Answers may be filed by August 4, 1980.
July 21, 1980	36500	Republic Airlines, Inc., Hartsfield Atlanta Int'l Airport, Atlanta, Georgia 30320. Application of Republic Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations, requests amendment of its certificate of public convenience and necessity for Route 99 so as to authorize it to engage in nonstop air transportation of persons, property and mail on a subsidy-ineligible basis, between Cincinnati, Ohio and Detroit, Michigan. Conforming Applications and Answers may be filed by August 18, 1980.
July 22, 1980	36506	Hughes Air Corp., d/b/a/ Hughes Airwest, San Francisco International Airport, San Francisco, California 94128. Application of Hughes Air Corp., d/b/a Hughes Airwest, pursuant to Section 401 of the Act and Subpart Q of the Boards' Regulations requests an amendment to its certificate of public convenience and necessity for Route 76 so as to remove the one-stop restriction upon the air transportation of persons, property, and mail between the following points: Orange County, California and Houston, Texas. Conforming Applications and Answers are due August 5, 1980.
July 25, 1980	36528	Qantas Airways Limited, c/o Thomas J. Whalen, Condon & Forsyth, 1001 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Qantas Airways Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Regulations requests that its permit be amended to authorize it to engage in the foreign air transportation of persons, property, and mail, in accordance with the foregoing Memorandum of Consultation, as follows: 1. Between a point or points in Australia, intermediate points in New Caledonia, Fiji, American Samoa, Canton Island, French Polynesia, Honolulu, and San Francisco and beyond to (a) Vancover and (b) New York and beyond to points in the British Isles and beyond to Europe and beyond. 2. Between a point or points in Australia, intermediate points in New Caledonia, Fiji, American Samoa, Canton Island, French Polynesia, Honolulu, and Los Angeles, San Francisco and New York. 3. Between a point or points in Australia, intermediate points in New Caledonia, Fiji, American Samoa, Canton Island, French Polynesia, Honolulu, and Los Angeles, San Francisco, and beyond San Francisco to Vancover. 4. Between a point or points in Australia, intermediate points in New Caledonia, Fiji, American Samoa, Canton Island, French Polynesia, Honolulu, and Los Angeles, San Francisco, and beyond San Francisco to New York and beyond to points in the British Isles and beyond to Europe and beyond. Points on any of the specified routes may at the option of Qantas Airways Limited be omitted on any or all flights, except that: (a) Flights from Los Angeles to the British Isles and beyond to Europe and beyond must stop at both San Francisco and New York; and (b) Flights from other points in the United States to the British Isles and beyond to Europe and beyond must stop at New York. The services of Qantas Airways Limited may be operated simultaneously on some or all of the routes specified above consistent with the conditions of the above route descriptions. Answers may be filed by August 22, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-23516 Filed 8-4-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 36595]

Competitive Marketing of Air Transportation; Notice of Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on August 12, 1980 (45 FR 45338, July 3, 1980) is hereby postponed to September 3, 1980 at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., July 30, 1980.

William H. Dapper,

Administrative Law Judge.

[FR Doc. 80-23514 Filed 8-4-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38511]

People Express Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding will be held on August 20, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Order 80-7-142, adopted July 22, 1980, defined the issues for this proceeding, and directed that petitions for leave to intervene and requests for additional evidence should be filed by August 4, 1980. Matters to be discussed at the prehearing conference will include evidence requested, future procedural dates, and such other matters as will contribute to the orderly and prompt conduct of this proceeding.

Dated at Washington, D.C., July 28, 1980.

Elias C. Rodriguez,

Administrative Law Judge.

[FR Doc. 80-23515 Filed 8-4-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets Nos. 38534 and 34128; Order 80-7-175]

Spanish Main International Airlines; Order Instituting Investigation

July 29, 1980:

On November 28, 1978, Spanish Main International Airlines filed an application requesting authority to engage in scheduled foreign air transportation between points in the United States and points in Europe, Central and South America, the Middle East and Africa.[1] Grant of the application would permit a new carrier to enter the air transportation industry as Spanish Main neither provides nor is authorized to provide any air service at this time.

As discussed in Order 80-2-39, we were unable to determine what action should be taken on Spanish Main's application at the time it was filed because of numerous deficiences, including the lack of critical information on the potential new entrant's fitness to provide the air service covered by its application. The application remained deficient despite the best efforts of our staff to help the applicant correct the deficiencies. In these circumstances, Order 80-2-39 advised Spanish Main that we would dismiss its application unless it provided additional information. On April 28, 1980, Spanish Main responded to our order.

The Federal Aviation Act, as amended, has declared as policy the encouragement of entry into the air transportation system by new carriers. Consistent with that objective we have decided to hold an oral evidentiary hearing, to be conducted by an administrative law judge, to consider Spanish Main's fitness to perform its proposed services. We are instituting the *Spanish Main International Airlines Fitness Investigation* (Docket 34128) for this purpose. We will consider whether it is consistent with the public convenience and necessity to grant all or part of the certificate authority sought by the applicant after the completion of the fitness investigation.

We expect that the administrative law judge assigned to this case will require Spanish Main to furnish any and all information necessary to develop a full and complete record upon which a decision can be based. Even though we have deferred the question of specific certificate requests, the fitness issue cannot be decided independently of the scope of the authority requested. We therefore request the administrative law judge to determine what service Spanish Main intends to operate in the first year of service and examine its fitness from this perspective.

Accordingly, 1. We institute the *Spanish Main International Airlines Fitness Investigation*, Docket 38534, and set it down for a hearing at a time and place to be determined later, before an administrative law judge;

2. The issue in that case will be whether Spanish Main is fit, willing, and able to perform properly the services described in its application and to comply with the Act and our rules, regulations and requirements;

3. We defer action on Spanish Main's requests for authority to engage in foreign air transportation in Docket 34128; and

4. Except to the extent granted or deferred here, all other requests are denied.

We will publish a copy of this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-23517 Filed 8-4-80; 8:45 am]

BILLING CODE 6320-01-M

[1] Spanish Main filed a motion to waive the service requirements of § 302.908 (now § 302.1705) of our Rules of Practice. We shall dismiss the motion as moot since we have decided to consider the applicant's fitness in an oral evidentiary proceeding and Rule 302.8 governs the service of documents in that proceeding. Under the rule, Spanish Main must serve all documents on all parties to the proceeding.

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Cy-Fab Manufacturing & Engineering Corporation, 32733 Folsom Road, Farmington Hills, Michigan 48024, producer of motorcycle accessories (accepted July 14, 1980); (2) Macler Industries, Inc., Howard Street, Friendship, New York 14739, producer of iron castings (accepted July 14, 1980); (3) Solo Products Corporation, Mill #1, Cordage Park, Plymouth, Massachusetts 02360, producer of hair care goods (accepted July 14, 1980); (4) Sign of the Times, 1050 Stanford Avenue, Los Angeles, California 90021, producer of women's handbags (accepted July 14, 1980); (5) Carlen Manufacturing Company, Inc., 80 North Pine Street, Hazleton, Pennsylvania 18201, producer of women's and children's tops, shorts and slacks (accepted July 15, 1980); (6) Sandstone Manufacturing Company, Inc., 1350 Broadway, New York, New

York 10018, produceer of women's, girls' and infants' slacks, shorts and skirts (accepted July 16, 1980); (7) Pacific Fireplace Furnishings, Inc., 202 South West 102nd Avenue, Tualatin, Oregon 97062, producer of fireplace screens, glass doors and wood baskets (accepted July 17, 1980); (8) Iselle Manufacturing Company, Inc., 129–39 North 12th Street, Philadelphia, Pennsylvania 19107, producer of women's dresses, jackets and skirts (accepted July 17, 1980); (9) Trinity Shake Company, P.O. Box 1877, Forks, Washington 98331, producer of cedar shakes (accepted July 17, 1980); (10) Burke Mills, Inc., P.O. Box 190, Valdese, North Carolina 28690, producer of yarns and knit fabrics (accepted July 18, 1980); (11) Northwest Shake Company, P.O. Box 362, Hoquiam, Washington 98520, producer of cedar shakes, shingles and ridges (accepted July 21, 1980); (12) Frederick Tool Corporation, 24630 C.R. #45, Elkhart, Indiana 46514, producer of table, workbench and sawhorse legs; and hand and masonry tools (accepted July 21, 1980); (13) American Manufacturing Corporation, Inc., 1048 Constance Street, New Orleans, Louisiana 70130, producer of women's lingerie and undergarments (accepted July 21, 1980); (14) Input Specialists, Inc., 813 Broad Street, Utica, New York 13501, producer of credit card imprinters (accepted July 21, 1980); (15) Valiant Yacht Corporation, 5355 Tallman Avenue Northwest, Seattle, Washington 98107, producer of yachts (accepted July 23, 1980); (16) Heppner Manufacturing Company, P.O. Box Q, Round Lake, Illinois 60073, producer of loudspeakers (accepted July 24, 1980); (17) Johnson Bronze Company, 500 South Mill Street, New Castle, Pennsylvania 16103, producer of sleeve bearings and bushings (accepted July 28, 1980); (18) Scott & Williams, Inc., P.O. Box 1345, Laconia, New Hampshire 03246, producer of knitting machines (accepted July 28, 1980); (19) Pawtucket Dyeing & Bleaching Company, 1454 Main Street, West Warwick, Rhode Island 02893, producer of dyed yarns (accepted July 28, 1980); and (20) American Bisque Company, Box 346, Williamstown, West Virginia 26187, producer of ceramic giftware (accepted July 28, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80-23543 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-24-M

National Oceanic and Atmospheric Administration

Northern Anchovy Fishery: Final Determination of Optimum Yield and Harvest Quotas for the 1980–81 Season

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of final determination of optimum yield and harvest quotas for 1980–81 season.

SUMMARY: This notice announces the final determination of estimated spawning biomass and limits on harvest of northern anchovy *(Engraulis mordax)* in the U.S. fishery conservation zone (FCZ) for the 1980–81 fishing season pursuant to the fishery management plan (FMP) for the northern anchovy fishery. The limits on total harvest and on harvests by different sectors of the fishery have been determined in accordance with the formulas in the FMP. This notice supersedes the notice of preliminary determination of estimated spawning biomass and harvest quotas as published in the Federal Register on July 8, 1980 (45 FR 45936).

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Floyd S. Anders, Jr., Acting Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731; telephone 213–548–2575.

SUPPLEMENTARY INFORMATION: The Regional Director has made a final determination that the 1980 spawning biomass of northern anchovy (central subpopulation) is estimated to be 1,775,000 short tons. Applying the formulas in the northern anchovy FMP to calculate optimum yield (OY), harvest quotas, expected harvesting and processing levels for various sectors of the domestic anchovy fishery, and total allowable level of foreign fishing (TALFF) and joint ventures, the Regional Director has determined for the 1980–81 fishing season in the FCZ that:

1. OY is 179,000 short tons.
2. The portion of the OY reserved for non-reduction fisheries is 12,600 short tons; however, non-reduction fishing may exceed 12,600 short tons provided the OY harvest is not achieved.
3. The total limit on harvest for reduction purposes is 166,400 short tons.
4. Of the total reduction harvest limit, 10,000 tons are reserved for fishing north of Pt. Buchon, California.
5. The extent to which U.S. vessels are capable of harvesting and intend to harvest anchovies is estimated to be 179,000 short tons, including 8,500 short tons of live bait which is not processed.
6. The extent to which U.S. firms are capable of processing and expect to process anchovies is estimated to be 170,500 short tons.
7. The TALFF for the anchovy fishery is zero (0).
8. The amount of northern anchovy available for a joint venture is zero (0).

The Regional Director notes that the spawning biomass estimate used to derive the above quotas is different from the estimate (924,100 short tons) announced on July 8, 1980. The difference arises from the initial use of a new biomass estimating technique developed by the Southwest Fisheries Center (SWC), NMFS. SWC Administrative Report LJ–80–09 documents this new technique, which derives a spawning biomass estimate using information on the number of eggs in the survey area and the spawning characteristics of the adult stock of anchovies. This new technique is believed to be more reliable than the anchovy larvae census method used in previous years. Advantages arise from several factors. Every parameter in the estimation equation has a biological definition, can be estimated annually

from survey data, and is not dependent on any historical estimates or indices of abundance. The variance of each parameter and final biomass estimate can be derived. Further, all data can be collected over a one-month period at far less cost than the four-cruise larvae census survey.

It has been pointed out, however, that the spawning biomass estimates from the larvae census method and the egg production method have not been calibrated and are not comparable estimates. Calibration is critical to the determination of appropriate changes (if any) in the management strategy for the anchovy fishery. The current formula for OY established a one million ton cut-off for the reduction fishery; that is, if spawning biomass falls below one million tons, no reduction fishery would be permitted. This cut-off is based on a model of the anchovy population's response to fishing pressure, and is intended to provide an adequate spawning and forage reserve and optimum social and economic benefits. The model in turn is based on the results of past years' larvae surveys. Assuming the Council will continue to use this "cut-off" strategy, calibration will likely result in a change of the cut-off level chosen to achieve similar results as under the current formulas. The amount and direction of change needed (if any) cannot be determined until the calibration is completed. Similarly, the analysis of impacts of alternative strategies cannot be accomplished until the revised formulas (cut-off, slope) can be incorporated into a revised bioeconomic model.

The Regional Director has discussed this matter with the Pacific Council and the California Department of Fish and Game, and has considered the advice of the Council's Scientific and Statistical Committee (SSC). The Regional Director has concluded that it is appropriate to use the results of the larvae census method until calibration with the egg production can be achieved and FMP amendments (if necessary) can be prepared and implemented. This will allow thorough review and consideration of the new technique by the Council and all interested sectors of the anchovy fishery so that its applicability is demonstrable. It also will provide an opportunity for the planning team to consider alternative models and new management options as suggested by the Council and its SSC.

This approach most likely means that the larvae census estimation technique will be applied in both the 1980–81 and 1981–82 seasons. It may be possible to calibrate the larvae survey and egg production estimates in late June, 1981; however, if FMP amendments are required, the Council will be required to hold public hearings and the NMFS will be required to process such amendments. Significant amendments could not be implemented in time for the 1981–82 season.

As noted, there is a substantial difference between the estimates of spawning biomass derived from the two techniques, but this difference should be kept in perspective. The spawning biomass estimate for the 1979–80 season was 1,723,000 short tons, just slightly less than the 1,775,000 short tons for 1980–81, using the larvae survey technique in both instances. Acoustic surveys by the California Department of Fish and Game, although resulting in somewhat lower estimates, show a similar degree of consistency between 1979 and 1980 biomass estimates. Use of the larvae census estimate is believed to be consistent with the northern anchovy FMP and with actual conditions in the fishery.

Note.—The Assistant Administrator for Fisheries has determined that this announcement does not constitute significant rulemaking under Executive Order 12044. An environmental impact statement for the northern anchovy FMP is on file with the Environmental Protection Agency. (16 U.S.C. 1801 et seq.)

Signed at Washington, D.C., this 30 day of July, 1980.

Dated: July 30, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-23433 Filed 7-31-80; 10:52 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Electromagnetic Radiation Management Advisory Council; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, notice is hereby given that the Electromagnetic Radiation Management Advisory Council will meet from 9:00 a.m. to 6:00 p.m. on August 26 and 27 in Room 540, 1800 G Street, N.W., Washington, D.C.

The Council advises the Secetary of Commerce on the biological effects of radiowaves and other forms of electromagnetic radiation. It was originally established in 1968 in the Executive Office of the President. The Council reports to the Secretary through NTIA's administrator, the Assistant Secretary for Communications and Information.

Principal agenda items will include: (1) a review of the microwave environment from the Soviet signals at the U.S. Embassy in Moscow, based on an analysis by the Applied Physics Laboratory, Johns Hopkins University, and a discussion of the implications for biological effects against the background of current knowledge; and (2) review and discussion of the present scientific basis for safety standards.

The meeting will be open to the public. Oral questions and comments will be allowed, time permitting. Written questions and comments may be submitted before or after the meeting. Public seating will be available on a first-come, first-served basis. Copies of the minutes will be provided upon request when available.

Inquiries may be addressed to the Committee Control Officer, Mr. Robert Frazier, NTIA, 1325 G Street, N.W., Washington, D.C. 20005, telephone (202) 724-3301.

Dated: July 31, 1980.

Dennis R. Connors,

Acting Director of Administration, National Telecommunications and Information Administration.

[FR Doc. 80-23550 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-60-M

Patent and Trademark Office

Performance Review Board

The Membership of the Patent and Trademark Office's Performance Review Board, announced in the Federal Register of February 6, 1980 (45 FR 8063), has changed. The change is as follows:

James R. Wright, National Bureau of Standards, Washington, D.C. 20234, replaces Richard P. Bartlett, Jr., Director of Administrative and Information Systems, National Bureau of Standards, Washington, D.C. 20234, as outside member for the balance of Mr. Bartlett's one-year term on the Board.

Dated: July 30, 1980.

Rene D. Tegtmeyer,

Acting Commissioner of Patents and Trademarks.

[FR Doc. 80-23451 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-16-M

Office of the Secretary

[Dept. Organization 30-35, Transmittal 499]

Patent and Trademark Office; Statement of Organization and Functions.

Date of issuance: July 11, 1980.

Effective date: July 8, 1980.

This order effective July 8, 1980 supersedes the materials appearing at 41 FR 37831 of September 8, 1976, 42 FR 44832 of September 7, 1977 and 44 FR 9418 of February 13, 1979.

Section 1. Purpose

.01 This Order prescribes the organization and assignment of functions within the Patent and Trademark Office. (Department Organization Order 30–3A prescribes the scope of authority and functions.)

.02 This revision reflects the realignment of existing elements of the Patent of Trademark Office to form the offices reporting to the newly established Assistant Commissioner for Finance and Planning (Section 9.), and incorporates the provisions of outstanding amendments.

Section 2. Organization Structure

The principal organization structure and line of authority shall be as depicted in the attached organization chart (Exhibit 1).

Section 3. Commissioner of Patents and Trademarks

The Commissioner of Patents and Trademarks determines the policies and directs the programs of the Patent and Trademark Office and is responsible for the conduct of all activities of the Patent and Trademark Office. The Commissioner is principally assisted by a Deputy Commissioner, four Assistant Commissioners and a Solicitor whose main duties shall be as specified below:

a. The *Deputy Commissioner* shall assist the Commissioner in the direction of the Patent and Trademark Office; shall perform the duties of the Commissioner in the latter's absence; and shall direct the Office of Equal Employment Programs.

b. The *Assistant Commissioner for Patents* (an Assistant Commissioner under 35 U.S.C. 3) shall provide administrative and policy direction to the patent examining and documentation operations which consists of the organizational elements enumerated in Section 5. of this Order. The Assistant Commissioner is assisted by a Deputy Assistant Commissioner. The Deputy Assistant Commissioner shall, among other duties as assigned, have immediate responsibility for patent, examination and for the organizational elements enumerated in paragraph 5.01, and shall perform the duties of the Assistant Commissioner during the latter's absence. There shall also be an Administrator for Documentation who shall have immediate responsibility for domestic and foreign patent documentation and the organization elements enumerated in paragraphs 5.02.

c. The *Assistant Commissioner for Trademarks.* (An Assistant Commissioner under 35 U.S.C. 3) shall provide administrative and policy direction to the trademark registration and related operations which consist of the organizational elements enumerated in Section 6. of this Order.

d. The *Solicitor* shall be the chief law officer of the Patent and Trademark Office and shall provide administrative and policy direction to organizational elements enumerated in Section 7. of this order. Pursuant to Department Organization Order 10–6, the Solicitor shall be subject to the overall authority of the Department's General Counsel with respect to legal matters involving the Patent and Trademark Office, other than in connection with the issuance of patents or the registration of trademarks. The Solicitor shall be assisted by a Deputy Solicitor who shall perform the duties of the Solicitor during the latter's absence.

e. The *Assistant Commissioner for Administration* shall be the principal advisor to the Commissioner on the formulation and application of administrative policies. The Assistant Commissioner for Administration shall provide administrative and policy direction ot the organizational elements enumerated in Section 8. of this Order. The Assistant Commissioner shall be assisted by a Deputy Commissioner who shall perform the duties of the Assistant Commissioner during the latter's absence.

f. The *Assistant Commissioner for Finance and Planning* shall be the principal advisor to the Commissioner on financial and planning matters. The Assistant Commissioner shall provide administrative and policy direction to the organizations enumerated in Section 9. of this Order. The Assistant Commissioner shall be assisted by a Deputy Assistant Commissioner. Among other duties as assigned, the Deputy Assistant Commissioner also shall be the Director of Resource Management, with immediate responsibility for the organizational elements enumerated in paragraph 9.01.

Section 4. Organizations Reporting to the Commissioner

.01 The *Board of Appeals* shall be responsible for hearing and deciding appeals from adverse decisions of examiners upon applications for patent.

.02 The *Board of Patent Interferences* shall conduct interference proceedings and make final determinations in the Patent and Trademark Office as to priority of invention. The Board shall also hear and decide questions concerning property rights in inventions in the atomic energy and space fields brought before it under the provisions of Sections 2182 and 2456(d) and (e) of Title 42, U.S.C.

.03 The *Office of Information Services* shall advise and represent the Commissioner on information matters; conduct programs fostering public understanding of the American patent system and of the functions, services and administrative publications of the Patent and Trademark Office; and develop publication policies.

.04 The *Office of Legislation and International Affairs* shall, subject to Department Organization Order 10–6, make studies and advise the Commissioner on policy and actions concerning matters which may require legislation or which involve international patent and trademark (intellectual property) matters; draft proposed legislation relating to patents and trademarks and advise on pending legislation affecting the Patent and Trademark Office; represent the Commissioner in the negotiation or renegotiation of treaties and the negotiation of other new major international initiatives; assist in the development and implementation of related programs; coordinate or conduct in cooperation with other appropriate Patent and Trademark Office organizations, negotiations in matters relating to existing international programs; and maintain liaison with the Office of the Secretary, the General Counsel, other agencies, international and foreign bodies, members of the public, and appropriate congressional committees in such matters.

.05 The *Office of Equal Employment Programs,* under the immediate direction of the Deputy Commissioner, shall be responsible for the design, development, implementation, review, and maintenance of all Patent and Trademark Office Equal Employment Opportunity (EEO) programs; including EEO complaint processes, the Affirmative Action Plan, upward mobility programs and other special emphasis programs such as those for women, Hispanic-Americans, the handicapped, and all protected groups and classes of employees.

Section 5. Organizations Reporting to the Assistant Commissioner or Patents

.01 Patent Examination Organizations.

a. The *Office of Patent Program Control* shall establish program activity targets and continually evaluate status against program objectives; provide training to examiners in patent practices

and procedures; and provide planning evaluation and budget support to the examination organizations, and perform such other duties as assigned.

b. The *Patent Examining Groups* shall examine applications for patents to ascertain if the applicants are entitled to patents under the law and grant patents to those so entitled. Each examining group shall perform this function for patent applications falling within the generic category assigned to it. The number of examining groups and the coverage of the generic categories shall be determined by the Commissioner.

.02 Patent Documentation Organizations.

a. The *Office of Documentation Planning, Support and Control* shall analyze the examiner and public patent search files and all proposed programs concerning them; coordinate efforts in regard to numerical files; develop and maintain overall documentation plans relating to these files; define the form, content and accessibility of these files and insure such definition through periodic checks; initiate the acquisition and provision of patent documentation for these files; coordinate the development of an overall system, and the efforts of related implementing activities, to insure the accuracy and effective utilization of patent data; provide budgetary and other services for the documentation organizations; and establish performance standards and evaluation criteria for, and monitor and evaluate, the activities of the documentation organizations.

b. The *Office of International Patent Classification* shall direct Patent and Trademark Office initiatives designed to foster harmonization of the United States Patent Classification System with the International Patent Classification System. The Office shall also consult and participate with foreign counterparts representing national offices and appropriate international groups in further development and refinement of the International Patent Classification System. In carrying out such consultations and participations, it shall coordinate all related policy matters with the Office of Legislation and International Affairs.

c. The *Office of Micrographic Systems* shall develop and recomend plans for miscrographic information systems including analyses of existing and proposed micrographic hardware and techniques suitable for meeting the particular demands of the U.S. Patent and Trademark Office. It shall also evaluated ongoing micrographic information systems in respect to the responsiveness of such systems to evolving informational needs. The foregoing shall be coordinated with other appropriate offices such as the Office of Automatic Data Processing Administration and the Office of Search Systems.

d. The *Office of Search Systems* shall maintain a state-of-the-art awareness of machine-assisted information storage, access, retrieval, and display systems useful or potentially useful in searching patent documentation; participate with parties in the private and government sectors in cooperative programs designed to develop systems for Patent and Trademark Office utilization; evaluate the potential of existing and cooperatively developed systems; initiate the acquisition and adaptation of selected systems and direct the maintenance of all non-operational research and display systems (equipment and materials); conduct and evaluate pilot tests in Patent and Trademark Office operating environments; recommend operational establishment or discontinuance of evaluated systems; and monitor and evaluate the performance of operational systems.

e. The *Scientific Library* maintains collections of technical and scientific information such as foreign patents, periodicals, books and other publications, in printed or microfilm form, and provides related services and facilities, for use by the public and by examiners and other personnel in the internal operations of the Patent and Trademark Office.

f. The *Classification Groups* shall develop, implement and maintain subject matter classification systems for the organization of patent search files of prior art including the preparation of definitions, indexes, schedules, and related documentations. Each classification group shall perform this function for subject matter falling within the generic category (chemical, electrical, mechanical) assigned to it.

Section 6. Organizations Reporting to the Assistant Commissioner for Trademarks

10. The *Office of Trademark Program Control* shall develop guidelines governing trademark examining procedures; establish program activity targets and continually evaluate status against program objectives; and provide instruction in trademark practice and procedures and coordinate trademark administrative support activities.

20. The *Trademark Trail and Appeal Board* shall be responsible for hearing and deciding adversary proceedings involving interfering applications, oppositions to registration, cancellations, and concurrent use proceedings; and for hearing and deciding appeals from final refusals of the trademark examiners to allow the registration of trademarks.

30. The *Trademark Examining Operation* shall be responsible for the classification of trademark applications into classes of goods and services, the examination and processing of these applications, and the registration of trademarks, service marks, and certification marks; and maintain the principal and supplemental registers of trademarks. The Trademark Examining Operation shall be composed of examining divisions, the number and coverage of such divisions to be determined by the Commissioner.

Section 7. Office Reporting to the Solicitor.

10. The *Office of the Solicitor* shall handle all litigation to which the Commissioner is a party and provide other legal services, including advice and assistance on legislative matters, and maintenance of the law library.

.20 The *Office of Government Employee Inventions* shall review questions of ownership of patents and rights to inventions made by Government employees in issues brought before it under Executive Order 10096 and shall make appropriate recommendations to the Commissioner for action on such questions.

Section 8. Offices Reporting to the Assistant Commissioner for Administration

10. The *Office of Automatic Data Processing Administration* shall coordinate automatic data processing resources for the Patent and Trademark Office; recommend to management the acceptance, updating or termination of all Patent and Trademark Office automatic data processing resources and contracts; provide management with regular reviews on the status of automatic data processing expenditures and utilization of resources; advise management on alternatives for meeting defined short and long range ADP requirements; coordinate ADP procurement and installation; operate a central computer facility for the Patent and Trademark Office responsive to user needs; conduct and review specified ADP feasibility studies; design, implement, operate and coordinate specialized ADP management information systems, including data collection, manipulation and dissemination; coordinate ADP liaison for the Patent and Trademark Office with the Department of Commerce and other Federal agencies; provide a programming and systems design

resources for approved projects based on requirements; provide technical assistance to the Patent and Trademark Office to fulfill needs as specified by the user.

.20 The *Office of General Services* shall plan and administer a broad Office-wide program of general services, including procurement control; property, space, and facilities management; communications, files, mail and correspondence, and forms management; administrative printing; and clearance of all requirements involving contractual procurements, including liaison with the Department of Commerce, in connection therewith.

.30 The *Office of Patent and Trademark Services* shall provide materials and services to the public, many on a fee basis, as well as to examiners and other personnel for internal operations of the Patent and Trademark Office. It shall maintain a Public Search Room with a collection of U.S. patents; record assignments and other instruments for the transfer of property rights to patents and trademarks; furnish copies of patents, trademark registrations and office records; and provide drafting services. It shall also conduct an initial examination of patent applications for compliance with law and regulations as to form and certain matters of factual content; grant or deny a filing date based on such examination, and forward to the Examining Groups those granted a filing date; acknowledge the acceptance or rejection of applications for examination; and maintain records on the status and location of all applications.

40. *Office of Personnel* shall administer activities relating to recruitment, placement, employee relations, training and career development, incentive awards, performance rating, position classification and wage administration, group-management relations, and various employee benefit programs.

.50 The *Office of Publications* shall schedule and manage the processing and movement of allowed patent application files in procuring the creation of full patent text machine language data base and the composition and printing of weekly patent issues and related announcements in the Official Gazette; provide requisition and scheduling services for trademark publications; monitor the quality or performance by contributing sources and maintain close liaison with U.S. Government Printing Office; and prepare and issue patent grants and periodic publications of patent indexes.

Section 9. Offices Reporting to the Assistant Commissioner for Finance and Planning

.01 Resource Management Organizations.

a. The *Office of Finance* shall develop and maintain the financial accounting system of the Patent and Trademark Office, perform accounting operations for the revenue, trust funds, and appropriation of the Patent and Trademark Office, including maintenance of general accounts and related fiscal records, preparation of financial statements and reports, audit and certification of vouchers for payment, issuance of deposit account statements, initiation of action to collect amounts due the Patent and Trademark Office, and administration of the payroll system and related employee accounts; and provide financial advice.

b. The *Office of Budget* shall develop and maintain Patent and Trademark Office budget and fiscal plans; provide advice and staff to assist line managers in preparing, reviewing, justifying, presenting and executing the Patent and Trademark Office's budget; develop budgetary policies and procedures for the entire Patent and Trademark Office budget process; maintain budgetary accountability for available funds; maintain external liaison on budgetary matters; and provide assistance in integrating program plans with the budgetary process.

c. The *Office of Planning and Evaluation* shall coordinate and help develop medium and long range plans for all Patent and Trademark Office programs; develop and administer a system for integrating the Patent and Trademark Office planning process with the budgetary process; coordinate and help develop goals, objectives, and strategies for the operating program offices of the Patent and Trademark Office, and evaluate the effectiveness of the administration of the progams against those goals, objectives and strategies.

.02 The *Office of Management and Organization* shall develop and/or receive requests for management improvement systems, programs or projects, including studies for work measurement, resource utilization, workflow analyses, computer systems, operations research and other operational problems and programs and determine the best resource(s) for analyses, resolution, and implementation; conduct organizational reviews; conduct, coordinate or assign studies on resource utilization, procedures or workflow analyses; coordinate work measurement studies; manage Patent and Trademark Office policy orders and administrative instructions and issuances; develop and maintain statistical data; and develop and manage a historical file on all management studies and statistical data developed.

.03 The *Office of Technology Assessment and Forecast* shall continually assess the status of technological activities in all countries; compare inventive activity in the United States relative to other nations; and forecast development on a worldwide basis.

.04 The *Office of Quality Review* shall establish criteria for reviewing, and perform a review of the quality of examination of patent and trademark applications which have been examined. The Office shall review: the application of substantive statutory criteria for patentability or registrability; the adequacy of the examiner's search of prior patent, trademark or other literature; and the adherence to approved examining procedures. The Office shall provide information to managers and examiners on the results of its review, and make recommendations for maintaining or improving the quality of examination.

Guy W. Chamberlin, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-23511 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 10-11, Amdt. 1; Transmittal 500]

Associate Deputy Secretary; Statement of Organization and Functions and Delegations of Authority

Effective Date: July 15, 1980.

This order effective July 15, 1980 amends the material appearing at 45 FR 6144 of January 25, 1980.

Department Organization Order 10-11 of January 2, 1980 is hereby amended as shown below. The purpose of this amendment is to redelegate to the Director, Office of State and Local Government Assistance, the title and authority of Special Assistant to the Secretary for Regional Development; also, the Director, Office of Regional Development will now report and be responsible to the Special Assistant.

1. Section 3. is revised to read as follows:

Section 3. Delegation of Authority

The authorities of the Secretary under Executive Order 11386 and the President's memorandum of January 19,

1979 on Regional Commission support, and under the Public Works and Economic Development Act of 1965 as amended (42 U.S.C. 3181 *et seq.*) which relate to the regional commission program, except for the authority to designate or modify the boundaries of economic development regions, are hereby delegated through the associate Deputy Secretary to the Director, Office of State and Local Government Assistance. This delegation includes the authority, subject to Departmental directives, to award grants and cooperative agreements in accordance with the Federal Grant and Cooperative Agreement Act of 1977, (41 U.S.C. 501 *et seq.*) in order to accomplish the purposes set forth in 42 U.S.C. 3185 (a)(1).

2. In section 4. Functions, in pen and ink delete paragraph d., and reletter paragraphs e. through q. as d. through p., respectively.

Guy W. Chamberlin, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-23540 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-17-M

Industry Policy Advisory Committee for Multilateral Trade Negotiations; Termination

ACTION: The purpose of this notice is to announce the termination of the Industry Policy Advisory Committee for Multilateral Trade Negotiations, and its 28 supportive committees, listed below:

Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for Multilateral Trade Negotiations (MTN)
ISAC on Automotive Equipment for MTN
ISAC on Communication Equipment and Non-Consumer Electronic Equipment for MTN
ISAC on Construction, Mining, Agriculture, and Oil Field Machinery and Equipment for MTN
ISAC on Consumer Electronic Products and Household Appliances for MTN
ISAC on Drugs, Soaps, Cleaners, and Toilet Preparations for MTN
ISAC on Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines for MTN
ISAC on Ferrous Metals and Products for MTN
ISAC on Food and Kindred Products for MTN
ISAC on Hand Tools, Cutlery, and Tableware for MTN
ISAC on Industry Chemicals and Fertilizers for MTN
ISAC on Leather and Products for MTN
ISAC on Lumber and Wood Products for MTN
ISAC on Machine Tools—Other Metalworking Equipment, and Other Nonelectrical Machinery for MTN
ISAC on Office and Computing Equipment for MTN
ISAC on Other Fabricated Metal Products for MTN
ISAC on Paint, Gum and Wood Chemicals, and Miscellaneous Chemical Products for MTN
ISAC on Photographic Equipment and Supplies for MTN
ISAC on Railroad Equipment and Miscellaneous Transportation Equipment for MTN
ISAC on Retailing for MTN
ISAC on Rubber and Plastics Materials for MTN
ISAC on Scientific and Controlling Instruments for MTN
ISAC on Stone, Clay, and Glass Products for MTN
ISAC on Textiles and Apparel for MTN
Committee on Industry Sector Advisory Committee Chairmen for Multilateral Trade Negotiations

SUPPLEMENTARY INFORMATION: These committees were established in 1974/1975 under the Trade Act of 1974 to provide the Secretary of Commerce and the Special Representative for Trade Negotiations with views and advice on matters concerning the multilateral trade negotiations undertaken by the U.S., and on trade barriers affecting individual products in the respective industry sectors during these negotiations.

SUMMARY: The above-mentioned committees concluded their work in the fall of 1979. However, recognizing the importance of advice from the private sector in the success of the MTN, the Congress provided for continuation of industry consultations in Section 1103 of the Trade Agreements Act of 1979, and new Advisory Committees on Trade Policy Matters were established on March 21, 1980, subsequent to publishing a notice announcing their establishment in the Federal Register (45 FR 14090, March 4, 1980).

EFFECTIVE DATE: The effective date of termination was June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Ann C. Ryder, Acting Director, Trade Advisory Center, International Trade Administration, Room 3036, U.S. Department of Commerce, telephone (202) 377-3268, or the Department's Committee Management Analyst, Mrs. Yvonne Barnes, telephone (202) 377-4217.

Dated: July 30, 1980.

Elsa O. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-23437 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Additional Officials of the Government of India Authorized To Issue Visa and Elephant-Shaped Certifications

July 30, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Two additional officials of the Government of India have been authorized to issue export visas and elephant-shaped certifications for cotton, wool and man-made fiber textile products from India.

SUMMARY: The Government of India has notified the United States Government that Mr. V. S. Kulkarni and Mr. S. Ragothaman are authorized to issue export visas and elephant-shaped certifications, in addition to officials named previously.

EFFECTIVE DATE: July 30, 1980.

FOR FURTHER INFORMATION CONTACT: Judith L. McConahy, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On November 29, 1979, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the Federal Register (44 F.R. 68504), which established an export visa requirement and certification of exemption of cotton, wool and man-made fiber textile products, produced or manufactured in India and exported to the United States. One of the requirements is that the visas and certifications for exemption must be signed by an official authorized by the Government of India. The Government of India has requested that two additional officials be recognized as authorized to issue visas and elephant-shaped certifications.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-23503 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-25-M

Import Controls on Certain Cotton and Man-Made Fiber Textile Products From the Republic of the Philippines

July 30, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Controlling imports from the Philippines of girls' and infants' cotton coats in Category 335 (all T.S.U.S.A. numbers in the category except 382.1202,

382.1204, 382.1206, 382.1217 and 382.1223) and deducting overshipment charges in the amount of 7,607 dozen; controlling women's cotton coats in Category 335 (only T.S.U.S.A. numbers 382.1202, 382.1204, 382.1206, 382.1217 and 382.1223); and (2) reducing the level of restraint previously established for women's blouses in Category 641 pt. (all T.S.U.S.A. numbers in the category except T.S.U.S.A. numbers 382.0460 and 382.8139) to account for overshipment charges amounting to 205 dozen. These actions affect textile products exported during the twelve-month period which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463))

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines, the United States Government has decided to control imports of cotton textile products in Category 335, produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on January 1, 1980 in addition to those categories previously designated. The levels of restraint for girls' and infants' cotton coats in Category 335 (all T.S.U.S.A. numbers in the category except 382.1202, 382.1204, 382.1206, 382.1217 and 382.1223) and women's blouses in Category 641 pt. (all T.S.U.S.A. numbers in the category except numbers 382.0460 and 382.8129) are being adjusted for overshipment charges in respective amounts of 7,607 dozen and 205 dozen.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 26, 1979, there was published in the Federal Register (44 FR 76386) a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and manmade fiber textile products, produced or manufactured in the Philippines, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. Under the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton textile products in Category 335 during that same period.

Accordingly, the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 335 in excess of the designated level of restraint and to adjust the previously established level for part of Category 641. The levels of restraint have not been adjusted to account for any imports after December 31, 1979. Imports for the period of January 1, 1980 to December 31, 1980 will be charged.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 30, 1980

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury
Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 19, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1977, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on August 6, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 335, produced or manufactured in the Philippines, in excess of the following level or restraint and to adjust the level for Category 641 pt:

Category:	12-mo level of restraint[1]
335 pt.[2]	23,927 dozen.
335 pt.[3]	32,562 dozen.
641 pt.[4]	163,139 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979.
[2] In Category 335, all T.S.U.S.A. numbers 382.1202, 382.1204, 382.1206, 382.1217 and 382.1223.
[3] In category 335, only T.S.U.S.A. numbers 382.1202, 382.1204, 382.1206, 382.1217 and 382.1223.
[4] In Category 641, only T.S.U.S.A. numbers 382.0459, 382.0461, 382.8133, 382.8137, 381,8143, and 382.8144.

Textile products in Category 335 which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Textile products in Category 335 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton and man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions to the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-23502 Filed 8-4-80; 8:45 am]

BILLING CODE 3510-25-M

Announcing a New Export Visa Requirement for Cotton, Wool, and Man-Made Fiber Textiles and Textile Products From the People's Republic of China

August 1, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing a new visa requirement for cotton, wool and man-made fiber textiles and textile products exported from the People's Republic of China.

SUMMARY: The Governments of the United States and the People's Republic of China have exchanged letters

establishing a new visa requirement for cotton, wool and man-made fiber textiles and textile products in Categories 300–369, 400–469 and 600–669, produced or manufactured in the People's Republic of China.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463).

EFFECTIVE DATE: August 20, 1980 for goods exported from the People's Republic of China on and after that date. Goods exported from the People's Republic of China before August 20, 1980 shall not be denied entry for consumption or withdrawal from warehouse for consumption until October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230, (202/377–5423).

SUPPLEMENTARY INFORMATION: Cotton, wool and man-made fiber textile and apparel products manufactured in the People's Republic of China and exported on or after August 20, 1980 from the People's Republic of China or from any other country of exportation shall be visaed with a circular stamp in order to be entered into the United States for consumption, or withdrawn from warehouse for consumption. Merchandise imported for the personal use of the importer, and not for resale, does not require a visa, regardless of value.

Shipments shall be visaed by the placing of an original stamped marking (the visa) in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used) and will be signed by a designated official of the Government of the People's Republic of China. A list of officials authorized to issue visas follows this notice. A facsimile of the visa stamp is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

The provision requiring entry, or withdrawal from warehouse, for consumption before October 6, 1980 of all goods exported before August 20, 1980 in no way authorizes release of quantities in excess of import controls presently in effect. Discussions with the People's Republic of China on a bilateral textile agreement are in progress.

Interested parties are advised to take all necessary steps to insure that cotton, wool and man-made fiber textiles and textile products, produced or manufactured in the People's Republic of China, which are to be entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the stated visa requirements.

The Embassy of the People's Republic of China has indicated that Huang Jianmo, Second Secretary, Embassy of the People's Republic of China, (202) 328–2527 and Sun Yonglun, Attache, Embassy of the People's Republic of China, (202) 328–2525 have been empowered to request waiver of visa requirements for individual shipments.

The letter published below from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishes the new export visa requirement.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Officials of the Government of the People's Republic of China Authorized To Issue Textile Export Visas

Chu Houchung
Wang Chu
Fang Ziping
Duang Juntian
Qi Yiguang
Wang Changjian
Huang Zenghua
Pan Tong
Gao Qingchang
Ren Yuheng
Ren Hsiaohsuan
Li Haoran

August 1, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, and in accordance with the Provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on August 20, 1980 and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 300–369, 400–469 and 600–669, produced or manufactured in the People's Republic of China and exported on and after August 20, 1980, from the People's Republic of China or from any other country of exportation, for which the Government of the People's Republic of China for which the government of the People's Republic of China has not issued an appropriate export visa, fully described below. Merchandise exported before August 20, 1980 shall be permitted entry without a visa until October 6, 1980.

The export visa will be an original circular stamp in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when that form is used) and will be signed by an authorized official of the Government of the People's Republic of China. A facsimile of the visa stamp is encolsed.

Merchandise for the personal use of the importer and not for resale does not require a visa, regardless of value.

You are further directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of cotton, wool and/or man-made fiber textile products, produced or manufactured in the People's Republic of China, notwithstanding the designated shipment or shipments do not fulfill the aforementioned visa requirements, whenever requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the People's Republic of China and with respect to imports of cotton, wool and man-made fiber texitiles and textile products from China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel

Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 80-23410 Filed 8-4-80; 8:45 am]
BILLING CODE 3510-25-C

DEPARTMENT OF DEFENSE

Advanced Research Projects Agency (DARPA)

The Privacy Act of 1974; Notice of Systems of Records: Amendments

AGENCY: Defense Research Projects Agency (DARPA).

ACTION: Notification of amendments for systems of records.

SUMMARY: The Defense Research Projects Agency (DARPA) proposes to amend three systems of records subject to the Privacy Act of 1974. The three systems being amended are set forth below under "Amendments".

DATES: These systems shall be amended as proposed without further notice on September 4, 1980, unless comments are received on or before September 4, 1980, which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Advanced Research Projects Agency, 1400 Wilson Boulevard, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The Advanced Research Projects Agency systems of records notices as prescribed by the Privacy Act have been published in the Federal Register as follows:

FR Doc. 79-370542 (44 FR 74142) December 17, 1979.

The proposed amendments are not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975 and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

Dated: July 30, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

Amendments

Following the identification made of the DARPA systems and the specific changes made therein, the complete revised record system, as amended, is published in its entirety. Citations are contained in the December 17, 1979 issue of the Federal Register.

E DARPA 001

SYSTEM NAME:

Travel File (44 FR 74143, December 17, 1979).

CHANGES:

SYSTEM LOCATION:

In line one, insert the word "Office," after the word "Services,".

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the entry, and insert:

"Traveler's name, office, days authorized, travel date, estimated cost, (other), airlines ticket costs and status."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete the entry, and insert:

"Title 5, United States Code, Section 301; Department of Defense Directive 5105.41, 'Defense Advanced Research Projects Agency (DARPA)', June 8, 1978."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading, and insert:

"Internal users, uses, and purposes:

"Used by the Director and Deputy Directors, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Administrative Officers, DARPA—Internal management administrative and budgetary needs. Provides daily, weekly and monthly status reports to top management officials concerning status of travel funds.

"External users, uses, and purposes:

"None."

RETRIEVABILITY:

In line two, delete "Record Category.", and insert: "Categories of records in the system:".

RETENTION AND DISPOSAL:

Delete the entry, and insert:

"Paper files will be destroyed by burning or pulping immediately after they have served their purposes or after 2 years, whichever occurs first. There are no plans to retire or destroy Automatic Data Processing (ADP) files.".

SYSTEM MANAGER(S) AND ADDRESS:

In line one, delete "Director, Administrative Services," and insert: "Administrative Officer,".

NOTIFICATION PROCEDURE:

Delete the entry, and insert:

"Information may be obtained from: Administrative Officer, DARPA, Room 607, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone: 202-694-3032".

RECORD ACCESS PROCEDURES:

In lines one and two, delete "Director, Administrative Services,", and insert: "Administrative Officer,".

E DARPA 002

SYSTEM NAME:

Biographical Sketch (44 FR 74143, December 17, 1979).

CHANGES:

SYSTEM LOCATION:

Delete "Administrative Office", and insert: "Manpower Office.".

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the entry under the above heading, and insert:

"Biographical sketch contains name, Date of Birth (DOB), home address, home phone; Service Computation Date (SCD), DARPA reporting date, DARPA project office, room number, office phone, position title and grade; experience; education, degree/year and field; awards or special achievements; spouse's name; remarks. Additional data for military personnel includes temporary rank/grade, permanent rank/grade; professional training received within past three years."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete the entry under the above heading, and insert:

"Title 5, United States Code, Section 301; Department of Defense Directive 5105.41, 'Defense Advanced Research Projects Agency (DARPA),' June 8, 1978."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading, and insert:

"Internal users, uses, and purposes:

"Used by the Director and Deputy Directors, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Manpower Officers, DARPA—To update management with a concise sketch of DARPA employees, when needed for award ceremonies or interviews.

"External users, uses, and purposes:

"None."

SYSTEM MANAGER(S) AND ADDRESS:

Delete "Administrative Officer", and insert: "Manpower Officer".

NOTIFICATION PROCEDURE:

Delete the entry, and insert:

"Information may be obtained from: Manpower Officer, DARPA, Room 605, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone: 202-694-3077".

RECORD ACCESS PROCEDURES:

In lines one and two, delete "Administrative Office", and insert: "Manpower Officer,".

E DARPA 004

SYSTEM NAME:

DARPA Personnel (44 FR 74144, December 17, 1979).

CHANGES:

SYSTEM LOCATION:

In line one, insert the words "Manpower Office" before the word "Defense".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete the entry, and insert:

"Title 5, United States Code, Section 301; Department of Defense Directive 5105.41, 'Defense Advanced Research Projects Agency (DARPA),' June 8, 1978."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading, and insert:

"Internal users, uses, and purposes:

"Used by the Director and Deputy Directors, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Manpower Officers, DARPA. Information in different combinations is used for monthly manpower counts, staffing balance for civilian vs. military, professional vs. clerical; grade and salary count. Individual organizational configuration only is available to appropriate Office Directors for their managerial needs.

"External users, uses, and purposes:

"None."

RETRIEVABILITY:

Delete "RECORD-CATEGORY", and insert: "Categories of records in the system:".

SAFEGUARDS:

In line two, delete the word "files" after the word "locked", and insert: "file cabinets".

RETENTION AND DISPOSAL:

In line one, insert: "Automatic Data Processing" after the word "destroy", and insert parentheses around the word "ADP".

SYSTEM MANAGER(S) AND ADDRESS:

In line one, delete "Administrative Officer", and insert: "Manpower Officer".

NOTIFICATION PROCEDURE:

Delete the entry, and insert:

"Information may be obtained from: Manpower Officer, DARPA, Room 605, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone: 202-694-3077".

RECORD ACCESS PROCEDURES:

In lines one and two, of the first paragraph, delete "Administrative Office", and insert: "Manpower Officer,".

E DARPA 001

SYSTEM NAME:

Travel File.

SYSTEM LOCATION:

Administrative Services Office, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DARPA employees, military and civilian, who make one or more TDY trips for DARPA. Selected government employees who visit DARPA on official business at DARPA's expense and certain nongovernment personnel traveling on Invitational Travel Orders for DARPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Traveler's name, office, days authorized, travel date, estimated cost, (other), airlines ticket costs and status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Section 301; Department of Defense Directive 5105.41, "Defense Advanced Research Projects Agency (DARPA)", June 8, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

Used by the Director and Deputy Directors, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Administrative Officers, DARPA—Internal management administrative and budgetary needs. Provides daily, weekly and monthly status reports to top management officials concerning status of travel funds.

External users, uses, and purposes:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer paper printouts, paper records and correspondence in file folders, also, magnetic disc.

RETRIEVABILITY:

Accessed by last name, by office, or by any of the data files listed in "Categories of records in the system:".

SAFEGUARDS:

Paper copies are maintained in areas accessible only to authorized personnel. Building employs security guards. File access is available to authorized personnel who have been assigned system passwords.

RETENTION AND DISPOSAL:

Paper files will be destroyed by burning or pulping immediately after they have served their purposes or after 2 years, whichever occurs first. There are no plans to retire or destroy Automatic Data Processing (ADP) files.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

NOTIFICATION PROCEDURE:

Information may be obtained from: Administrative Officer, DARPA, Room 607, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone: 202-694-3032.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Administrative Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, the period for which the information is required and specific categories of information required.

For personal visits, the individual should be able to provide DoD Identification Card.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

DARPA Special Orders (TDY, Invitational, PCS, etc.); Travel Vouchers as submitted by travelers and as returned by the local finance offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS FO THE ACT:

None.

E DARPA 002

SYSTEM NAME:

Biographical Sketch.

SYSTEM LOCATION:

Manpower Office, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DARPA current and past employees, military and civilian.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical sketch contains name, Date of Birth (DOB), home address, home phone; Service Computation Date (SCD), DARPA reporting date, DARPA project office, room number, office phone, position title and grade; experience; education, degree/year and field; awards or special achievements; spouse's name; remarks. Additional data for military personnel includes temporary rank/grade, permanent rank/grade; professional training received within past three years.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Section 301; Department of Defense Directive 5105.41, "Defense Advanced Research Projects Agency (DARPA)", June 8, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

Used by the Director and Deputy Directors, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Manpower Officers, DARPA—To update management with a concise sketch of DARPA employees, when needed for award ceremonies or interviews.

External users, uses, and purposes:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Biographical sketches are in employee's file folder.

RETRIEVABILITY:

Accessed by last name.

SAFEGUARDS:

Combination lock file cabinets. Material is maintained in areas accessible only to authorized personnel. Building employs security guards.

RETENTION AND DISPOSAL:

Records are maintained while employee is with DARPA; records are destroyed by burning 2 years after employee has left DARPA.

SYSTEM MANAGER(S) AND ADDRESS:

Manpower Officer, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209.

NOTIFICATION PROCEDURE:

Information may be obtained from: Manpower Officer, DARPA, Room 605, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone: 202-694-3077.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Manpower Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, his project office, and period employed in DARPA.

For personal visits, the individual first needs to identify himself as a DARPA employee.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is provided by individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

E DARPA 004

SYSTEM NAME:

DARPA Personnel.

SYSTEM LOCATION:

Manpower Office, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYTEM:

Current and former DARPA employees, civilian and military, consultants, and part-time employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains individual's Biographical Data: Name, Prename, Date of Birth (DOB), Age, Eductation; Classification Data: Job Series, Job Title, Position Description Number, Salary; Grade Data: Grade Type, Grade Step, DARPA Promotion, Last Within Grade Increase (WGI), Next Within Grade Increase (WGI); Office of Personnel Management Data: Service Computation Date (SCD), Years in Government; DARPA Data: Project, Civilian-Military Professional Support, Project Number, Entered on Duty (EOD) DARPA; Left DARPA, Years in DARPA; Military Data: Rank, Service, Reassignment Due, Slot Rank, DARPA Award, Date of Rank, Position Description; Review Data; Clearance, Current Office Assignment Data, Eligibility for Retirement; Remarks; Mailing Data: Title, Name, Spouse's Name, Street, City, State, Zip Code, Home Phone; Office Data: Name, Office Phone, Room, Division.

AUTHORITY FOR MAINTENANCE OF THE SYTEM:

Title 5, United States Code, Section 301; Department of Defense Directive 5105.41, "Defense Advanced Research Projects Agency (DARPA)", June 8, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

Used by the Director and Deputy Directors, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Manpower Officers, DARPA. Information in different combinations is used for monthly manpower counts, staffing balance for civilian vs. military, professional vs. clerical; grade and salary count. Individual organizational configuration only is available to appropriate Office Directors for their managerial needs.

External users, uses, and purposes:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic disk, computer paper printouts, paper records, and correspondence in file folders.

RETRIEABILITY:

Data is retrievable by last name as well as by any of the data fields listed in "Categories of records in the system:".

SAFEGUARDS:

Access to total file limited by password, building employs security guards. Files are maintained in combination lock file cabinets and in areas accessible only to authorized personnel that are properly screened and trained.

RETENTION AND DISPOSAL:

Files are permanent. There are no plans to retire or destroy Automatic Data Processing (ADP) files. Paper files are destroyed immediately after serving the purpose for which prepared.

SYSTEM MANAGER(S) AND ADDRESS:

Manpower Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

NOTIFICATION PROCEDURE:

Information may be obtained from: Manpower Officer, DARPA, Room 605, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209, Telephone: 202-694-3077.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Manpower Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, the DARPA office assigned to currently or previously and the period of employment with DARPA.

For personal visits, the individual should be able to provide some acceptable identification, such as DARPA pass, DoD pass, or verbal information that could be varified in this file.

CONTESTING RECORD PROCEDURES:

The Agency's rules for acces to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is provided by individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-23574 Filed 8-4-80; 8:45 am]
BILLING CODE 3810-70-M

Corps of Engineers; Department of the Army

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Gregory County Pumped Storage Facility, South Dakota.

AGENCY: U.S. Army Corps of Engineers, Omaha District.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: In the matter of intent to prepare a Draft Environmental Impact Statement (DEIS) for the potential Gregory County Pumped Storage Facility, Gregory County, South Dakota. The DEIS would be included in the Draft Interim Report for the Missouri River, South Dakota, Nebraska, North Dakota, Montana Review Report for Water Resources Development.

1. The potential Federal Action is to recommend to Congress that the Corps of Engineers be authorized to construct the Gregory County Pumped Storage Facility. This facility would be located on the west bank of Lake Francis Case approximately 3 miles south of the Platte-Winner Bridge.

2. Reasonable structural alternatives to meet expected increases in peak energy demands include other pumped storage sites, conventional hydroelectric capacity, gas and oil fired combustion turbines, and underground pumped storage. Nonstructural alternatives to reduce peak demand include load management and conservation measures.

3. To date, public involvement concerning the potential Gregory County Pumped Storage Project has included coordination with Federal, State, and local agencies including citizens groups and individuals. Coordination was conducted as part of the preparation of the August 1977 Missouri River, South Dakota, Nebraska, North Dakota, and Montana Review Report for Water Resources Development. Potential significant impacts identified thus far include socioeconomic impacts during the construction period, water quality impacts to Lake Francis Case, adverse impacts to all life stages of the fishery in Lake Francis Case, loss of terrestrial habitat, disruption of waterfowl migration patterns, loss of farmland, displacement of local landowners, and transmission line impacts. Beneficial impacts include availability of peaking power reduced oil use, more efficient use of the existing coal fired facilities in the region, potential for public water supply, and the potential for irrigation. The project will comply with the requirements of the Historic Preservation Act, the Endangered Species Act, Section 404 of the 1977 Clean Water Act, Executive Order 11988 on flood plains and Executive Order 11990 on wetlands.

4. A scoping meeting for the DEIS will be held on Thursday, August 21, 1980, at 1:30 p.m. (CDT) at the King's Inn, 220 S. Pierre Street, in Pierre, South Dakota. The participation of the public and all interested Governmental agencies is invited.

5. The Omaha District estimates that the DEIS will be released for public review in June 1981.

ADDRESS: Questions about the proposed action, DEIS, or scoping meeting should be directed to Gerard Mick, Acting Chief, Environmental Analysis Branch, Omaha District, CE, 6014 U.S. Post Office and Courthouse, Omaha, NE 68102. Phone: (402) 221-4628.

Dated: July 23, 1980.

John E. Velehradsky,

Chief, Planning Division.

[FR Doc. 80-23486 Filed 8-4-80; 8:45 am]
BILLING CODE 3710-92-M

Department of the Navy

Part-Time Career Employment Program

The Department of the Navy is proposing a Part-time Career Employment Program to implement within the Department of the Navy the requirements of the Federal Employees Part-time Career Employment Act of 1978 (Pub. L. 95-439) and the regulatory requirements of the Office of Personnel Management. The proposed program provides for the creation of part-time employment positions within the Department of the Navy. Interested persons may submit written comments to the Office of the Chief of Naval Operations, OP-14, Washington, D.C. 20350. Comments received on or before October 6, 1980 will be considered before final action is taken on this proposal.

Part-Time Career Employment Program:

Subchapter 1. General Provisions

1-1 Purpose and Policy

These provisions implement Public Law 95-437, the Federal Employees Part-time Career Employment Act, by establishing requirements and procedures for the Department of the Navy's Part-time Career Employment Program. The policy of the Department of the Navy is:

a. To expand the number and scope of permanent part-time positions to include professional, technical, trades, craft and clerical series; and

b. To provide part-time career employment opportunities to all interested and eligible applicants and employees covering positions GS-1 through GS-15 and equivalent positions in a manner so as to carry out its mission and agreements made to recognize employee organizations. A position occupied by a full-time employee will not be abolised to established a part-time position, unless both management and the employee agree to the change.

1–2 Program Objectives

a. To increase part-time employment by providing opportunities to the following individuals:

(1) Older persons whose adjustment to retirement is facilitated by a gradual decrease in hours of work.

(2) Students who need part-time employment to finance their education.

(3) Parents whose family responsibilities require a part-time schedule.

(4) Handicapped or other individuals who require or desire a part-time schedule.

b. To increase motivation and productivity by making part-time opportunities available to current employees.

c. To increase productivity by employing, on a part-time basis, individuals whose skills would not not otherwise be available.

d. To offer management flexibility in meeting work requirements and filling various occupational shortage category positions.

1–3 Definitions

a. Part-time employment—Regularly scheduled work between 16 and 32 hours per week, performed by Tenure Group I and II employees, who were hired or converted to such schedule, in either the competitive or excepted service, on or after April 8, 1979.

b. Tenure Group I—Those employees under career appointments not serving probation and those employees in the excepted service whose appointments carry no condition or restriction.

c. Tenure Group II—Those employees serving probation or who are career-conditional and those employees in the excepted service serving trial periods or whose tenure is equivalent to career-conditional in the competitive service.

d. Tenure Group III—Indefinite employees; employees serving in certain temporary appointments; employees in non-status non-temporary appointments; and status quo employees.

e. Intermittent Employment—Recurring employment which is not prescheduled.

f. Temporary Employment—Work performed by Tenure Group III employees in either a non-continuing position or performed on a non-permanent basis in a continuing position.

g. Mixed tour of duty—Career employment with varying periods of full-time, part-time and intermittent service. Also known as career seasonal employment.

1–4 Coverage

Employees covered. Tenure Group I and II employees in both competitive and excepted service appointed or converted to part-time positions at the GS–1 through GS–15 or equivalent levels on or after April 8, 1979.

1–5 Exceptions

Persons appointed or converted to part-time career positions after April 8, 1979 are precluded from working between 32 and 39 hours a week except when a temporary increase in hours is necessary because of heavy workloads or training. The following are excepted from these regulations:

a. Positions at the GS–16 level and above, or equivalent.

b. Positions for which a collective bargaining agreement, in effect on April 8, 1979, established the number of hours of employment per week.

c. Part-time positions established with a scheduled tour of duty of less than 16 hours a week, if the position is necessary to carry out the mission of the Department of the Navy.

d. Intermittent or temporary employees as defined in 1–3e and f above. This exclusion does not prohibit appointment of such employees to permanent part-time positions.

e. Employees in positions necessary to carry out the mission of the Department of the Navy which have been restricted from conversion to part-time employment by the heads of activities.

f. Part-time employees who were serving under permanent appointments prior to April 8, 1979 so long as their current part-time employment continues.

g. Seasonal employees with mixed tours of duty as defined in 1–3g above.

1–6 Part-time Career Ceiling

Effective 1 October 1980, a part-time career employee will be counted as a fraction of a ceiling point determined by dividing 40 hours into the average number of hours in the employee's regularly scheduled work week.

Subchapter 2. Career Part-time Employment Program Implementation and Procedures

2–1 Program Implementation

a. *Program responsibilities.* (1) The Chief of Naval Operations, OP–14, will have overall responsibility for the Part-time Career Employment Program.

(2) The Director, Naval Civilian Personnel Command is responsible for:

(a) Providing guidance and assistance to headquarters offices and field activities on program implementation.

(b) Designating a program coordinator to serve as the point of contact for inquiries concerning the Part-time Career Employment Program.

(c) Preparing reports required or requested by the Chief of Naval Operations or the Office of Personnel Management.

(3) Heads of headquarters offices are responsible for consolidating Part-time Carrer Employment Program reports from activities under their cognizance.

(4) Heads of field activities and headquarters offices are responsible for:

(a) Ensuring that activity Part-time Career Employment Programs are established and implemented in accordance with the Department of the Navy and the Office of Personnel Management regulations, instructions, and guidance.

(b) Ensuring that flexibilities of the Part-time Career Program are considered during the Affirmative Action Program process.

(c) Preparing part-time employment reports required or requested by the Office of Personnel Management or the Chief of Naval Operations.

b. *Career Part-time Employment Goals and Timetables.* Beginning Fiscal Year 1981, heads of field activities and headquarters offices must establish, on a fiscal year basis, annual goals and timetables for career part-time positions established or converted in any given year. Activity part-time employment goals should reflect consideration of the Department of the Navy Part-time Career Employment Program objectives, mission, and criteria provided in 2–2b below.

2–2 Requirements and Procedures for Establishing Part-time Positions and Converting Full-time Positions to Part time

a. *Requirements.* The head of each activity or designee will develop a Part-time Career Employment Program providing procedures for establishing and converting full-time positions to part-time. The program must also include procedures for:

—Accepting supervisors' and selecting officials' requests to establish part-time positions;

—Accepting and acting on full-time employees' requests to convert to part-time positions;

—Informing employees and supervisors of the advantages of and opportunities for part-time employment;

—Advertising part-time employment opportunities, including innovative methods of indentifying and reaching applicants;

—Contacting the servicing personnel office in order to get assistance concerning part-time career opportunities;

—Coordinating with functional areas impacting on the Part-time Career Employment Program; and
—Incorporating part-time employment information into required training for new supervisors.

b. *Initial review of vacant positions.* Upon becoming vacant, all full-time positions at the GS–15 and below levels or equivalent will be reviewed to determine if the position is appropriate for part-time designation as ascertained by analysis of the following criteria:

(1) *Mission and Function.* In what way does the mission and function of the activity impact on the possible designation of the position as part-time?

(2) *Current interest.* Is there current employee part-time employment interest in the vacant position?

(3) *Affirmative action.* Has the EEO officer or the Selective Placement Program Coordinator identified the position as a part-time employment high interest position?

(4) *Workload.* Do workload fluctuations merit consideration for part-time employment? Do travel or other duties of the position preclude part-time career designation?

(5) *Turnover rate.* What is the documented turnover rate for the position? In what way does information gathered from exit interviews of incumbents indicate that conditions contributing to high turnover rate may be alleviated by part-time employment designation? If there is a low turnover rate, in what way may the stability of the office or the position contribute to the feasibility of converting the position?

(6) *Service to the public.* Will designation of position as part-time improve the service to the public on a short-term basis? On a long term basis?

Subsequent reviews need only be conducted if: (1) the duties of or conditions concerning the positions have changed so as to accommodate part-time schedule, or (2) the supervisor or selecting official requests a review.

c. *Establishing part-time positions.* The activity will apply the criteria outlined in 2–2b above, before establishing a part-time position. Heads of activities and of major commands and headquarters offices have authority to exempt from part-time consideration those positions considered vital to activity mission.

d. *Converting full-time positions to part-time.* The local Part-time Employment Program must provide detailed procedures for accepting and processing employees' requests for conversion to part-time employment in their current positions. Requests should be in writing and must be approved or disapproved within one month of submission. Those employees contemplating conversion to part-time positions must be provided information on changes in leave and employee benefits. The local Part-time Employment Program must also provide procedures for accepting and processing employees' applications for part-time employment in other than their current position. For example, heads of activities may establish a part-time employment file or register of applications submitted every six months by internal employees who desire part-time employment. The file or register should be established by grade levels and occupational series.

e. *Conversion from career part-time to full-time positions.* Management has the prerogative to convert career part-time positions to full-time but must notify the employee within one month in advance of the proposed action. If the employee cannot convert to full-time, every effort should be made to place the employee in a comparable part-time position. Documentation of events or conditions contributing to the conversion is required.

f. *Decreasing the schedule of part-time employees.* Management cannot decrease the part-time career employee's schedule without the employee's permission except by following adverse action procedures.

g. *Notifying the public of part-time career employment opportunities.* Vacancies, for which there are insufficient internal candidates, will be advertised. Announcements, if used, must specify part-time employment. When a decision is made to advertise beyond the activity and to accept applications from non-governmental employees, activities must notify, at a minimum, the Office of Personnel Management and State employment services. Consideration must also be given to innovative methods of recruitment which would bring opportunities to those persons desiring or requiring part-time career employment opportunities.

2–3 Employee Benefits

a. *Leave.* (1) Annual leave for those full-time employees converted to part-time career is earned at a rate based on the number of years of service and is computed as outlined in the Federal Personnel Manual Chapter 630.3–1(b). Part-time employment has no effect on the Office of Personnel Management maximum allowable carry-over of annual leave.

(2) Sick leave will be earned at a rate of one hour for each twenty hours of duty.

(30 Conversion to part-time career will exclude employees from military leave provisions.

(4) Court leave and leave without pay is credited in the same way as with full-time employees.

(5) Part-time career employees receive holiday pay only if they are regularly scheduled to work and only for those hours scheduled to work.

b. *Employees life insurance benefits.* Part-time career employment does not change employees' eligibility for Employees Group Life Insurance benefits. The amount of life insurance carried may decrease but never to an amount lower than the regulatory minimum.

c. *Health insurance.* The amount of the Federal Government's contribution to health insurance costs will be prorated base on the amount of hours of scheduled work during the pay period. Employees converted to part-time career schedules under Pub. L. 95–437 without a break in service or after separation of three days or less, may change enrollment from one plan or option ot another.

d. *Retirement.* Service is credited for part-time employees in the same manner as for full-time.

2–4 Reporting Requirements and Program Evaluation

a. *Reporting Requirements.* Beginning with Fiscal Year 1981, biannual reports must be prepared on the progress of meeting part-time career goals and impediments incured in meeting those goals. Such reports will cover periods 1 October through 31 March and 1 April through 30 September. Heads of activities will forward biannual reports to the appropriate headquarters office. The latter offices will consolidate activity reports and forward them to the Director, Naval Civilian Personnel Command by 15 April and 15 October of each year. The Director, Naval Civilian Personnel Command will submit the reports to the Office of Personnel Management via the Chief of Naval Operations, Op-14, by 15 May and 15 November of each year. The reports must include the following:

(1) Established overall goals for the year.

(2) Data which show, by series and grade levels, the number of part-time career positions filled by:

—Handicapped individuals
—Parents with family responsibilities
—Older persons
—Students

(3) Number of part-time positions established, listed by grade level and occupational series.

(4) Number of employees converted to part-time schedules and the percentage of positions established in 2–4a(2), above, filled by these employees.

(5) Problems incurred in establishing goals and meeting timetables and mesures taken to solve them.

b. *Evaluation of Part-time Career Employment Program.* Supervisors and other key personnel working with the part-time program will evaluate the Part-Time Career Employment Program annually. The evaluation should be made available for review by the Office of Personnel Management and Department of the Navy Personnel Management Evaluation teams. The evaluation will address, but not be limited to, the following:

(1) Were goals realistic? In what way may procedures to reach timetables be improved? List additional procedures which may facilitate derivation of goals and timetables thereof.

(2) Was the activity Part-time Career Employment Program adequate? List additional means of providing employees information on the program.

(3) Was vacancy advertisement sufficient? How can advertisement be improved?

(4) In what way may training of supervisors be improved?

(5) In what way may the continuous review of the part-time program be improved?

(6) Did the Part-time Career Employment Program meet the objectives of both the program participant and management.

(7) Was management satisfied with the productivity of part-time employees?

Part-time Career Employment Act of 1978

Statutory Requirements

Establish and maintain part-time program—Establish criteria which will be used to identify positions for which part-time employment may be used.

Review positions which upon becoming vacant may be filled with career part-time employees.

Provide procedures and criteria for establishing and converting positions for part-time career employment.

Develop goals for establishing and converting positions for part-time career employment, timetables for achieving goals including interim and final deadlines.

Continuously review and evaluate Part-time Career Employment Program.

Development procedures for notifying public of vacant part-time career positions.

Provide for communication between land coordination of activities of the individuals within the agency who have part-time employment responsibilities.

Dated: July 30, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-23485 Filed 8-4-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

The Privacy Act of 1974; Notice of Systems of Records: Deletions and Amendments

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notification of deletions and amendments for systems of records.

SUMMARY: The Office of the Secretary of Defense proposes to delete three and amend eleven systems of records subject to The Privacy Act of 1974. The deleted systems and reasons for their deletions are specifically set forth below under "Deletions." The eleven systems being amended are set forth below under "Amendments".

DATES: These systems shall be deleted and amended as proposed without further notice on September 4, 1980, unless comments are received on or before September 4, 1980, which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Office of the Secretary of Defense, Room 5C315, Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, telephone: 202–695–0970

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act have been published in the Federal Register as follows:

FR Doc. 79-370542 (44 FR 74088) December 17, 1979
FR Doc. 80-7517 (45 FR 15604) March 11, 1980
FR Doc. 80-8135 (45 FR 17056) March 17, 1980
FR Doc. 80-13709 (45 FR 29390) May 2, 1980
FR Doc. 80-13707 (45 FR 29590) May 5, 1980
FR Doc. 80-15479 (45 FR 34034) May 21, 1980
FR Doc. 80-19461 (45 FR 43409) June 27, 1980

The proposed amendments are not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A–108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975 and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regrding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

July 30, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

Deletions

Notice is given that the following Office of the Secretary of Defense systems of records were all published in the December 17, 1979 issue of the Federal Register.

ISA 01

SYSTEM NAME:

ISA Telephone Directory (44 FR 74102).

REASON:

This system has been redesignated as DUSDP 01, appearing with minor revisions in the "Amendments" section of this document.

ISA 02

SYSTEM NAME:

ISA Locator File (44 FR 74102).

REASON:

This system has been redesignated as DUSDP 02, appearing with minor revisions in the "Amendments" section of this document.

ISA 03

SYSTEM NAME:

ISA Organizational Personnel Files (44 FR 74102).

REASON:

This system has been redesignated as DUSDP 03, appearing with minor revisions in the "Amendments" section of this document.

Amendments

Following the identification made of the OSD record systems and the specific changes made therein, the complete revised record systems, as amended, are published in their entirety. Citations are in the December 17, 1979 issue of the Federal Register.

DCOMP MS02

SYSTEM NAME:

Personnel Leave Schedule (44 FR 74093, December 17, 1979).

CHANGES:

SYSTEM LOCATION:

Decentralized Segments—Delete "Six", and insert: "Four".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete "10 USC 136", and insert: "Title 10, United States Code, Section 136".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES:

Delete the entry under the above heading, and insert:

"Internal users, uses, and purposes:

"Information is used by the DASD, his Principal Assistant and Directors, for leave administration within the management responsibilities of the DASD(MS).

"External users, uses, and purposes:

"See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices."

RETRIEVEABILITY

Delete the entry under the above heading, and insert:

"Records are retrieved by name."

SYSTEM MANAGER(S) AND ADDRESS:

Delete the word "Building", and insert a comma after the word "Pentagon".

NOTIFICATION PROCEDURE:

Delete the entry, and insert:

"Information may be obtained from: DASD(MS), Room 3E831, Pentagon, Washington, D.C. 20301, Telephone: 202-695-3424."

CONTESTING RECORD PROCEDURES:

In line one, insert the word "Agency's" between the words "The" and "rules". In lines two and three, delete "may be obtained from the SYSMANAGER", and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DCOMP MS11

SYSTEM NAME:

List of Female Employees of OSD/OJCS (44 FR 74096, December 17, 1979).

CHANGES:

SYSTEM LOCATION:

In the first paragraph, line two, delete "4B916", and insert: "4B922". Insert a comma after the word "Pentagon", and delete the word "Building".

CATEGORIES OF RECORDS IN THE SYSTEM:

In line two, insert: "(SSN)" after the word "number".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading, and insert:

"Internal users, uses, and purposes:

"Used by Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, to mail information on Federal Women's Program to OSD/OJCS Women Employees. Used by Federal Women's Program Coordinator to locate personnel to recommend to them training and employment opportunities

"External users, uses, and purposes:

"See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices."

SYSTEM MANAGER(S) AND ADDRESS:

In line two, delete "4B916", and insert: "4B922". Insert a comma after the word "Pentagon", and delete the word "Building".

NOTIFICATION PROCEDURE:

In line two, delete "4B916", and insert: "4B922". Insert a comma after the word "Pentagon", and delete the word "Building".

RECORD ACCESS PROCEDURES:

In line two after the word "Number", insert: "(SSN)".

In line three, delete "4B916", and insert: "4B922". Insert a comma after the word "Pentagon", and delete the word "Building".

RECORD SOURCE CATEGORIES:

Delete "Civil Service Commission", and insert: "Office of Personnel Management".

DMRA&L 03.0

SYSTEM NAME:

Employer Support File (PLEDGE) (44 FR 74105, December 17, 1979).

CHANGES:

SYSTEM LOCATION:

Delete the first sentence under the above heading, and insert:

"Primary Location: National Guard Computer Center, 5600 Columbia Pike, Falls Church, Va. 22041."

In the second paragraph, second line, delete "907,", and insert: "900,".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading, and insert:

"The purpose of the file is to assist in informing the public and encouraging employers to support the Guard and Reserve.

"Internal users, uses, and purposes:

National Committee for Employer Support of the Guard and Reserve; used to answer inquiries from employees or prospective employees of companies concerning whether a company has pledged to support the Guard and Reserve; used by members of the state committees for employer support to assist Guard and Reserve members who are experiencing difficulties with companies that have pledged; used as a screening tool to prevent resolicitation of support from employers who have already pledged; used to supply state level organizations' lists of companies in states which have pledged; used to prepare speech and press release material mentioning companies that have pledged.

Any individual records in the system may be transferred to any component of the Department of Defense having a need-to-know in the performance of official business

"External users, uses, and purposes:

"Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, and civil court action, or regulatory order."

SYSTEM MANAGER(S) AND ADDRESS:

In line two, delete "907," and insert: "900,".

NOTIFICATION PROCEDURE:

In the fourth line, delete "907", and insert: "900".

RECORD ACCESS PROCEDURES:

In the third line, delete "907,", and insert: "900,".

DMRA&L 17.0

SYSTEM NAME:

DOD Overseas Dependent School Teachers Retroactive Pay Project (44 FR 74109, December 17, 1979).

CHANGES:

Delete the above system name, and insert: "DoD Teacher Back Pay Project.".

DMRA&L 19.0

SYSTEM NAME:

Automated Career Management System (ACMS) DD-M(AR)1456 (44 FR 74110, December 17, 1979).

CHANGES:

SYSTEM LOCATION:

In line one, delete "Defense Electronics Supply Center,", and insert: "DoD Centralized Referral Activity,".

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In line one, delete: "General Schedule".

In line two, change the period at the end of the sentence to a semicolon, and insert: "and DoD Senior Executive Service Candidates.".

CATEGORIES OF RECORDS IN THE SYSTEM:

In line one, delete the word "Account".

In the second line, after the word "Number,", insert: "(SSN),".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Amend the entry under the above heading as follows:

Internal users, uses, and purposes:

In line three of the first paragraph, insert: "Automated Career Management System" after the word "against". Insert parentheses around "ACMS".

In line one of the third paragraph, delete the word "might", and insert: "may".

RETRIEVABILITY:

In line one, delete the word "Account"; at the end of the line after the word "Number,", insert: "(SSN),".

SYSTEM MANAGER(S) AND ADDRESS:

In line three, delete "3B281,", and insert: "3D264, Pentagon,".

RECORD ACCESS PROCEDURES:

In line two, delete "Defense Electronics Supply Center," and insert: "DOD-CRA-R,".

DUSDP 01

SYSTEM NAME:

ISA Telephone Directory (44 FR 74102, December 17, 1979).

CHANGES:

Delete "ISA" from the above system name, and insert: "Office of the Under Secretary of Defense for Policy (OUSDP)".

SYSTEM LOCATION:

Delete the entry, and insert: "Primary Sytem—Office of the Assistant for Administration, Office of the Under Secretary of Defense for Policy (OUSDP), Room 4D840, Pentagon, Washington, D.C. 20301."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete the entry, and insert: "All military and civilian employees of the Office of the Under Secretary of Defense for Policy (OUSDP), which include personnel from the following offices:

Assistant Secretary of Defense (International Security Affairs),
Defense Security Assistance Agency,
Deputy Under Secretary of Defense for Policy Planning,
Deputy Under Secretary of Defense for Policy Review,
Director for Net Assessment,
Deputy Advisor for NATO Affairs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete the entry under the above heading, and insert:

"Title 5, United Stats Code (Annotated), Section 301; and the Federal Personnel Manual, Chapter 293."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading, and insert:

"Internal users, uses, and purposes:

"Used by all Office of the Under Secretary of Defense for Policy (OUSDP) employees for telephone locator service.

"External users, uses, and purposes:

"Telephone reference service."

STORAGE:

Delete the entry, and insert:

"The Directory is stored in a locked file cabinet."

SAFEGUARDS:

Insert the following before the entry: "Room is secured after duty hours."

RETENTION AND DISPOSAL:

Delete the entry, and insert:

"The Directory is reissued periodically. Obsolete copies are destroyed when the Directory is reissued."

SYSTEM MANAGER(S) AND ADDRESS:

Delete the entry, and insert:

"Under Secretary of Defense for Policy (USDP), Pentagon, Washington, D.C. 20301."

NOTIFICATION PROCEDURE:

Delete the entry under the above heading, and insert:

"Information may be obtained from: OUSDP, Room 4D840, Pentagon, Washington, D.C. 20301, Telephone: 202-697-8126".

RECORD ACCESS PROCEDURES:

Delete the first two lines, and insert: "Requests from individuals should be addressed to the address noted in the 'Notification procedure:' listed above."

CONTESTING RECORD PROCEDURES:

Delete the entry, and insert:

"The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DUSDP 02

SYSTEM NAME:

ISA Locator File (44 FR 74102, December 17, 1979).

CHANGES:

Delete "ISA" from the above system name, and insert:

"Office of the Under Secretary of Defense for Policy (OUSDP)".

SYSTEM LOCATION:

Delete the entry, and insert:

"Primary System—Office of the Assistant for Administration, Office of the Under Secretary of Defense for Policy (OUSDP), Room 4D840, Pentagon, Washington, D.C. 20301."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete the entry, and insert:

"All military and civilian employees of the Office of the Under Secretary of Defense for Policy (USDP), which include personnel from the following offices:

Assistant Secretary of Defense (International Security Affairs),
Defense Security Assistance Agency,
Deputy Under Secretary of Defense for Policy Planning,
Deputy Under Secretary of Defense for Policy Review,
Director for Net Assessment,
Deputy Advisor for NATO Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the entry, and insert:

"Contains employee names; grades; Social Security Number (SSN); years of service; date and place of birth; home address; home phone number; marital status; number of dependents; security clearance; date of clearance; date reported; reserve status; mobilization designation; and office room and phone number; date of departure and forwarding address."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete the entry, and insert:

"Title 5, United States Code (annotated), Section 301; and Federal Personnel Manual, Chapter 293."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading, and insert:

"Internal users, uses, and purposes:

"Internal locator use for administrative purposes. Routine use by personnel within the Office of the Assistant for Administration, OUSDP.

"External users, uses, and purposes:

"None."

STORAGE:

Delete "table top", and insert: "kept in locked safe".

RETENTION AND DISPOSAL:

Delete "Permanent", and insert: "Locator file is retained permanently."

SYSTEM MANAGER(S) AND ADDRESS:

Delete the entry, and insert: "Under Secretary of Defense for Policy (USDP), Pentagon, Washington, D.C. 20301."

NOTIFICATION PROCEDURE:

Delete the entry, and insert: "Information may be obtained from: OUSDP, Room 4D840, Pentagon, Washington, D.C. 20301, Telephone: 202–697–8126".

RECORD ACCESS PROCEDURES:

Delete the first two lines, and insert: "Requests from individuals should be addressed to the address noted in the 'Notification procedure:' listed above."

CONTESTING RECORD PROCEDURES:

Delete the entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DUSDP 03

SYSTEM NAME:

Organizational Personnel Files and 201 Files (44 FR 74102, December 17, 1979).

CHANGES:

SYSTEM NAME:

Delete the above system name and insert: "Office of the Under Secretary of Defense (OUSDP) Organizational Personnel Files.".

SYSTEM LOCATION:

Delete the entry, and insert: "Office of the Assistant for Administration, Office of the Under Secretary of Defense for Policy (OUSDP), Room 4D840, Pentagon, Washington, D.C. 20301.".

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete the entry, and insert: "All military and civilian employees of the Office of the Under Secretary of Defense for Policy (OUSDP), which include personnel from the following offices:

"Assistant Secretary of Defense (International Security Affairs),
"Defense Security Assistance Agency,
"Deputy Under Secretary of Defense for Policy Planning,
"Deputy Under Secretary of Defense for Policy Review,
"Director for Net Assessment,
"Deputy Advisor for NATO Affairs".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete the entry, and insert: "Title 5, United States Code (annotated), Section 301; and Federal Personnel Manual, Chapter 293.".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading, and insert:

"Internal users, uses, and purposes:

"Administrative personnel management use. Routine use by personnel within the Office of the Assistant for Administration, OUSDP.

"External users, uses, and purposes:

"None."

RETENTION AND DISPOSAL:

Delete "OASD(ISA)", and insert: "OUSDP,".

SYSTEM MANAGER(S) AND ADDRESS:

Delete the entry, and insert: "Under Secretary of Defense for Policy (USDP), Pentagon, Washington, D.C. 20301."

NOTIFICATION PROCEDURE:

Delete the entry, and insert: "Information may be obtained from: OUSDP, Room 4D840, Pentagon, Washington, D.C. 20301, Telephone: 202–697–8126".

RECORD ACCESS PROCEDURES:

Delete the first paragraph under the above heading, and isnert: "Requests from individuals should be addressed to the address noted in 'Notification procedure:' listed above."

CONTESTING RECORD PROCEDURES:

Delete the entry and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

RECORD SOURCE CATEGORIES:

Delete "Civil Service Commission,", and insert: "Office of Personnel Management;".

DUSDRE 03

SYSTEM NAME:

Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Inventor's File (44 FR 74125, December 17, 1979).

CHANGES:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading and insert:

"Internal users, uses, and purposes:

The information in this file is primarily collected to give consideration to the inventions, ideas, and proposals submitted by the public. These files are used to reply to correspondence and inquiries from the public and other Government agencies. The information contained in these files is used by the staff of OUSDRE.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices."

NOTIFICATION PROCEDURE:

In line two, delete the word "Assistant". In line three, delete "3E1030,", and insert: "3E1031,".

DUSDRE 04

SYSTEM NAME:

Requests for Two-Year Foreign Residence Waiver Files (44 FR 74125, December 17, 1979).

CHANGES:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entry under the above heading, and insert:

"Internal users, uses, and purposes:

Security Policy and Review Division—To evaluate requests for waivers.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices."

SAFEGUARDS:

Delete the first sentence under the above heading, and insert: "Building guards and locked file containers."

NOTIFICATION PROCEDURE:

In line three, delete "3D1067", and insert: "3D1014".

DWHS I0&R01

SYSTEM NAME:

Combat Area Casualties (44 FR 74127, December 17, 1979).

CHANGES:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

In line four, change the semicolon after "1965" to a period. Delete "and

Pub. L. 95–479, 92 Stat. 1565, 'Veterans Disability Compensatin and Survivors' Benefits Act of 1978,' approved October 18, 1978."

RETENTION AND DISPOSAL:

In line one, after the word "permanent", insert: "Automatic Data Processing" and insert parentheses around the word "ADP".

DCOMP MS02

SYSTEM NAME:

Personnel Leave Schedule.

SYSTEM LOCATION:

Primary System—ODASD (Management Systems).

Decentralized Segments—Four MS Directorates.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel in ODASD(MS).

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains name and dates of anticipated future leave.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, United States Code, Section 136.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

Information is used by the DASD, his Principal Assistant and Directors, for leave administration within the management responsibilities of the DASD(MS).

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM I.

STORAGE:

The records are maintained in the Office of the Directors or by the secretary of the Director. Copies are often provided to all personnel concerned.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Records are kept in desk of Director or his secretary except in one Division and one Directorate which posts on wall in secretary's office.

RETENTION AND DISPOSAL:

Files are discarded when no longer useful.

SYSTEM MANAGER(S) AND ADDRESS:

The DASD (Management Systems), Room 3E831, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: DASD (MS), Room 3E831, Pentagon, Washington, D.C. 20301, Telephone: 202–695–3424.

RECORD ACCESS PROCEDURE:

Requests from personnel should be addressed to his immediate supervisor.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Roster of employees and employee response to request for vacation dates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DCOMP MS 11

SYSTEM NAME:

List of Female Employees of OSD/OJCS.

SYSTEM LOCATION:

Primary System—Federal Women's Program Coordinator, Room 4B922, Pentagon, maintained in automated form—Army Data Center.

Decentralized Segment—Director of Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian female employees of OSD/OJCS.

CATEGORIES OF RECORDS IN THE SYSTEM:

File is extract of Civilian Personnel Data File and contains organization identification, employee name, Social Security Number (SSN), Series, Grade, Time Basis, Position Title.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11246/11375, "Equal Employment Opportunity," as amended by EO 11478, "Equal Employment Opportunities in the Federal Government."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

Used by Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, to mail information on Federal Women's Program to OSD/OJCS Women Employees. Used by Federal Women's Program Coordinator to locate personnel to recommend to them training and employment opportunities.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Automated list in Federal Women's Program Coordinator Office. Automated tape in Army Data Center.

RETRIEVABILITY:

Listed by organization.

SAFEGUARDS:

List is kept under lock. Only available to Federal Women's Program Coordinator.

RETENTION AND DISPOSAL:

Record is new. Revised lists are provided, as required.

SYSTEM MANAGER(S) AND ADDRESS:

OSD/OJCS Federal Women's Program Coordinator, Room 4B922, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information my be obtained from: OSD/OJCS Federal Women's Program Coordinator, Room 4B922, Pentagon, Washington, D.C. 20301.

RECORD ACCESS PROCEDURES:

Written requests for information should contain the full name of the individual, organization assignment and Social Security Number (SSN). Visits are limited to Room 4B922, Pentagon, Washington, D.C. 20301. For personal visits the individual should provide DoD identification prior to access.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

The Central Personnel Data File prescribed by the Office of Personnel Management.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DMRA&L 03.0

SYSTEM NAME:

Employer Support File (PLEDGE).

SYSTEM LOCATION:

Primary Location: National Guard Computer Center, 5600 Columbia Pike, Falls Church, Va. 22041.

Hardcopy roster located at: National Committee for Employer Support of the Guard and Reserve, Room 900, 1117 North 19th Street, Arlington, Va. 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Self-employed individuals, individuals heading companies bearing their names, the pledging officials representing various companies, or staff directors who have pledged to support the National Guard and Reserve Components.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, geographic location, size, and business of pledging company.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING THE CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES;

The purpose of the file is to assist in informing the public and encouraging employers to support the Guard and Reserve.

Internal users, uses, and purposes:

National Committee for Employer Support of the Guard and Reserve; used to answer inquiries from employees or prospective employees of companies concerning whether a company has pledged to support the Guard and Reserve; used by members of the state committees for employer support to assist Guard and Reserve members who are experiencing difficulties with companies that have pledged; used as a screening tool to prevent resolicitation of support from employers who have already pledged; used to supply state level organizations' lists of companies in states which have pledged; used to prepare speech and press release material mentioning companies that have pledged.

Any individual records in the system may be transferred to any component of the Department of Defense having a need-to-know in the performance of official business.

External users, uses, and purposes:

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, and civil court action, or regulatory order.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic computer tape:

RETRIEVABILITY:

Retrieved by company name, geographic location, or type of business.

SAFEGUARDS:

Primary location is a TOP SECRET facility.

Hardcopy output is accessible to authorized personnel only during working hours; room is locked after hours and building has security guards.

RETENTION AND DISPOSAL:

Records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, National Committee for Employer Support of the Guard and Reserve, Room 900, 1117 North 19th Street, Arlington, Va. 22209.

NOTIFICATION PROCEDURE:

Information may be obtained from: Chairman, National Committee for Employer Support of the Guard and Reserve, Room 900, 1117 North 19th Street, Arlington, Va. 22209, Telephone: 202-697-6902.

RECORD ACCESS PROCEDURES:

Requests for information should be addressed to: Chairman, National Committee for Employer Support of the Guard and Reserve, Room 900, 1117 North 19th Street, Arlington, Va. 22209.

Written requests should contain the name of the individual and/or employer, current mailing address and telephone number.

For personal visits, the individual should be able to provide some acceptable identification, such as driver's license.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is supplied by employers who have pledged, from Dunn and Bradstreet, and from Census Data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

None.

DMRA&L 17.0

SYSTEM NAME:

DOD Teacher Back Pay Project.

SYSTEM LOCATION:

DOD Office of Dependents Schools, 2461 Eisenhower Avenue, Alexandria, Virginia 22331.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All former DOD Overseas Dependents School teachers who were paid under Public Law 89-391, dated April 14, 1966.

CATEGORIES OF RECORDS IN THE SYSTEM:

System is comprised of names, Social Security Numbers, and Dates of Birth of former DOD overseas teachers, and information extracted from their Official Personnel Records which will effect computation of their retroactive pay; and current addresses of former teachers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Court Decision in the case called Virginia J. March et al. v. United States of America (Civil Action 3437-70, U.S. District Court, District of Columbia, June 30, 1975) on intent of Public Law 89-391, dated April 14, 1966.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING THE CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES;

Internal users, uses, and purposes:

Used by Office of Dependents Schools Back Pay Project workers to compute back pay as it applies to individual teacher; prepare necessary updating for individual's Official Personnel Record, life insurance entitlement where applicable; prepare reports to individual teachers, Treasury, Social Security, Office of Personnel Mangement, Attorneys for the teachers, and General Accounting Office. Addresses will be used for mailing purposes.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Computer tapes, computer printouts.

RETRIEVABILITY:

Social Security Number (SSN) and name.

SAFEGUARDS:

All records are stored under strict control, maintained in spaces normally

accessible only to authorized personnel, in cabinets in locked room.

RETENTION AND DISPOSAL:

Records will be maintained in this office until all requirements of the judgment and will be destroyed when they are no longer useful.

SYSTEM MANAGER(S) AND ADDRESS:

Director, DOD Office of Dependents Schools, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics).

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to Director, DOD Office of Dependents Schools, Attn: Back Pay Project, 2461 Eisenhower Avenue, Room 148, Alexandria, Va. 22331. Telephone: 202-325-0660. Letter should contain the full name and signature of the requester.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to same address as stated in the "Notification Procedure:", above.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Official Personnel Records obtained from Federal Records Center and other agencies currently employing individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DMRA&L 19.0

SYSTEM NAME:

Automated Career Management System (ACMS) DD-M(AR) 1456.

SYSTEM LOCATION:

DOD Centralized Referral Activity, 1507 Wilmington Pike, Dayton, Ohio 45444.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department of Defense civilian career program employees GS-5 or higher and former employees; and DOD Senior Executive Service Candidates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home and work addresses, Social Security Number (SSN), educational background, work experience, grade and salary, occupation, age, special qualifications, awards, military reserve status; and supervisory appraisals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Sections 301 and 302, which authorize Agency Heads to: establish civilian personnel management programs; maintain files and records necessary to operate such programs; and delegate civilian personnel management authorities to subordinate officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system provides a list of eligible candidates qualified to fill position vacancies normally at GS-13 and higher grade levels and to provide information for program analyses and management.

Internal users, uses, and purposes:

All DOD Civilian Personnel Offices and the DOD Components serviced by these offices are required to submit job vacancies to designated occupation series against Automated Career Management System (ACMS) for the generation of a list with resumes of qualifed candidates for consideration by a selection panel and others.

Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy)—Used for statistical analyses of civilian work force, and management and evaluation of specific employment programs within the Department of Defense.

Any individual records contained in the system may be transferred to any component of the Department of Defense having the need-to-know in the performance of official business.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Disc packs.

RETRIEVABILITY:

Retrievable by occupation, Social Security Number (SSN), name, specific skills, educational background, or training background.

SAFEGUARDS:

The location is identified as a secure area; access is through electrically controlled doors and cypher locks; disc packs are stored in a vault when not in use.

RETENTION AND DISPOSAL:

Active records are maintained up to one year after termination of the individual's employment with the Department of Defense, or upon notification that the individual no longer is employed in a position for which registration is required. Inactive records of personnel are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Staffing and Career Management, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Room 3D264, Pentagon, Washington, D.C. 20301, Telephone: 202-697-3402.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Written requests from individuals should be addressed to Director, Centralized Referral Activity, DOD-CRA-R, 1507 Wilmington Pike, Dayton, Ohio 45444.

For personal visits, the individual should be able to provide some acceptable form of identification, such as a driver's license.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Data are obtained from record subjects, from their official personnel folders, and from supervisory appraisals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DUSDP 01

SYSTEM NAME:

Office of the Under Secretary of Defense for Policy (OUSDP) Telephone Directory.

SYSTEM LOCATION:

Primary System—Office of the Assistant for Administration, Office of the Under Secretary of Defense for Policy (OUSDP), Room 4D840, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian employees of the Office of the Under Secretary of Defense for Policy (OUSDP), which

include personnel from the following offices:

Assistant Secretary of Defense (International Security Affairs),
Defense Security Assistance Agency,
Deputy Under Secretary of Defense for Policy Planning,
Deputy Under Secretary of Defense for Policy Review,
Director for Net Assessment,
Deputy Advisor for NATO Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Directory contains employees' names, office and home phone numbers by organizational element and room number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code (Annotated), Section 301; and the Federal Personnel Manual, Chapter 293.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

Used by all Office of the Under Secretary of Defense for Policy (OUSDP) employees for telephone locator service.

External users, uses, and purposes:

Telephone reference service.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

The Directory is stored in a locked file cabinet.

RETRIEVEABILITY:

Listed alphabetically by name and organization.

SAFEGUARDS:

Room is secured after duty hours. Building employs security guards.

RETENTION AND DISPOSAL:

The Directory is reissued periodically. Obsolete copies are destroyed when the Directory is reissued.

SYSTEM MANAGER(S) AND ADDRESS:

Under Secretary of Defense for Policy (USDP), Pentagon, Washington, D.C. 20301.

NOTIFICATION:

Information may be obtained from: OUSDP, Room 4D840, Pentagon, Washington, D.C. 20301, Telephone: 202–697–8126.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the address noted in the *"Notification procedure:"* listed above.

Written requests for information should contain the full name of the individual, current address and telephone number.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is supplied by the individuals listed.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DUSDP 02

SYSTEM NAME:

Office of the Under Secretary of Defense for Policy (OUSDP) Locator File.

SYSTEM LOCATION:

Primary System—Office of the Assistant for Administration, Office of the Under Secretary of Defense for Policy (OUSDP), Room 4D840, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian employees of the Office of the Under Secretary of Defense for Policy (OUSDP), which include personnel from the following offices:

Assistant Secretary of Defense (International Security Affairs),
Defense Security Assistance Agency,
Deputy Under Secretary of Defense for Policy Planning,
Deputy Under Secretary of Defense for Policy Review,
Director for Net Assessment,
Deputy Advisor for NATO Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains employee names; grades; Social Security Number (SSN); years of service; date and place of birth; home address; home phone number; marital status; number of dependents; security clearance; date of clearance; date reported; reserve status; mobilization designation; and office room and phone number; date of departure and forwarding address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code (Annotated), Section 301; and Federal Personnel Manual, Chapter 293.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

Internal locator use for administrative purposes. Routine use by personnel within the Office of the Assistant for Administration, OUSDP.

External users, uses, and purposes:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Card file box—kept in locked safe.

RETRIEVABILITY:

Filed alphabetically by last name of employee.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas with controlled access to authorized personnel only.

RETENTION AND DISPOSAL:

Locator file is retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Under Secretary of Defense for Policy (USDP), Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: OUSDP, Room 4D840, Pentagon, Washington, D.C. 20301, Telephone: 202–697–8126.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the address noted in "Notification procedure:" listed above.

Written requests for information should contain the full name of the individual, current address and telephone number.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual listed.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DUSDP 03

SYSTEM NAME:

Office of the Under Secretary of Defense (OUSDP) Organizational Personnel Files.

SYSTEM LOCATION:

Office of the Assistant for Administration, Office of the Under Secretary of Defense for Policy (OUSDP), Room 4D840, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian employees of the Office of the Under Secretary of Defense for Policy (OUSDP), which include personnel from the following offices:

Assistant Secretary of Defense (International Security Affairs).

Defense Security Assistance Agency.

Deputy Under Secretary of Defense for Policy Planning.

Deputy Under Secretary of Defense for Policy Review.

Director for Net Assessment.

Deputy Advisor for NATO Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains individual assignment orders and copies of other personnel actions affecting named individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code (Annotated), Section 301; and Federal Personnel Manual, Chapter 293.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Internal users, uses, and purposes:

Administrative personnel management use. Routine use by personnel within the Office of the Assistant for Administration, OUSDP.

External users, uses, and purposes:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of employee.

SAFEGUARDS:

Building security guards, Mosler safe, controlled access to authorized personnel.

RETENTION AND DISPOSAL:

Permanent while assigned to OUSDP, then in inactive file for one year.

SYSTEM MANAGER(S) AND ADDRESS:

Under Secretary of Defense for Policy (USDP), Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: OUSDP, Room 4D840, Pentagon, Washington, D.C. 20301, Telephone: 202-697-8126.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the address noted in "Notification procedure:" listed above.

Written requests for information should contain the full name of the individual, current address and telephone number.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Military Services; OSD Military Personnel; Office of Personnel Management; OSD Civilian Personnel; and State Department.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DYSDRE 03

SYSTEM NAME:

Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Inventor's File.

SYSTEM LOCATION:

Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Office Secretary of Defense, Room 3E1006, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have submitted inventions, ideas, and proposals for consideration by the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

These files contain correspondence with individuals concerning their inventions, ideas, and proposals submitted to the Department of Defense; evaluations by Government employees of those inventions, ideas, and proposals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 133.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGOIRIES OF USERS, AND THE PURPOSE OF SUCH USES:

Internal users, uses, and purposes:

The information in this file is primarily collected to give consideration to the inventions, ideas, and proposals submitted by the public. These files are used to reply to correspondence and the inquiries from the public and other Government agencies. The information contained in these files is used by the staff of OUSDRE.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name.

SAFEGUARDS:

Building guards and locked file containers. Records are maintained in areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Retained in active files for a period of five years and then transferred to the Washington National Records Center, Suitland, Maryland 20409.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Control and Administration, Office of the Secretary of Defense, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: Director, Program Control and Administration, Room 3E1031, Pentagon, Washington, D.C. 20301, Telephone: 202-697-4994.

Written requests for information should contain the full name of the individual, current address and telephone number and any other information which would help in identifying the desired information.

For personal visits, the individual must be able to provide acceptable identification, that is, driver's license, employing office's identification card, and give verbal information that could be verified with his "case folder."

RECORD ACCESS PROCEDURES:

Request should be addressed to SYSMANAGER as shown above.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is provided by individuals who send their inventions, ideas, and proposals to the Department of Defense and Government employees who evaluate the inventions, ideas, and proposals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DUSDRE 04

SYSTEM NAME:

Requests for Two-Year Foreign Residence Waiver Files.

SYSTEM LOCATION:

Security Policy and Review Division—Office of the Director, Program Control and Administration, Office of the Under Secretary of Defense for Research and Engineering, Office of the Secretary of Defense.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any foreigner applying for a waiver of Foreign Residency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain requests for waiver of foreign residency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 535).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

Security Policy and Review Division—To evaluate requests for waivers.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of individual.

SAFEGUARDS:

Building guards and locked file containers. Records are maintained in an area accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are permanent. Retained in active file for ten years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Control and Administration, OUSDRE, Office of the Secretary of Defense, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: Security Policy and Review Division, Room 3D1014, Pentagon, Washington, D.C. 20301, Telephone: 202-697-3459.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Under Secretary of Defense for Research and Engineering, Office of the Secretary of Defense, Pentagon, Washington, D.C. 20301.

Written requests for information should contain full name of individual, current address and telephone number and approximate date of waiver request.

For personal visits individual should be able to provide appropriate identification.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Application and related correspondence from sponsor and individual requesting waiver.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DWHS IO&RO1

SYSTEM NAME:

Combat Area Casualties.

SYSTEM LOCATION:

Directorate for Information Operations and Reports, Washington Headquarters Services, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Names of all military personnel who were killed, missing, captured, or interned in Southeast Asia.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain a completed Reported of Casualty (DD Form 1300).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11216, 3 CFR 301 (1964–1965 Compilation). "Designation of Vietnam and Waters Adjacent Thereto as a Combat Zone for the Purposes of Section 112 of the Internal Revenue Code of 1954," approved April 24, 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

The purpose of this system of records is to compile a list of all military personnel who were killed, missing, captured, or interned in Southeast Asia. This list is used by the Office of the Assistant Secretary of Defense (International Security Affairs) (OASD(ISA)), the Defense Intelligence Agency (DIA), and other OSD activities.

External users, uses, and purposes:

To the Veterans Administration—listing the name, Social Security Number (SSN), and rank of all former prisoners-of-war of the Vietnam conflict for the purpose of conducting comprehensive studies of the disability compensation awarded to and the health care needs of veterans. To any public or private person for statistical purposes. The name, grade, date of birth only are released on those are currently missing, captured, or interned.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

DD 1300s are filed in file reference order by service, country of occurrence.

RETRIEVABILITY:

Data may be retrieved by name or file reference number.

SAFEGUARDS:

All information is maintained in locked safes.

RETENTION AND DISPOSAL:

Records are permanent. Automatic Data Processing (ADP) files will be made available to National Archives when no longer required by Office of the Secretary of Defense (OSD).

SYSTEM MANAGER(S) AND ADDRESS:

Director of Information Operations and Reports, Washington Headquarters Services, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: Director of Information Operations and Reports, Washington Headquarters Service, Department of Defense, Room 4B938, Pentagon, Washington, D.C. 20301, Telephone: 202–697–6107.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the System manager.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

The source of this information is the serviceman's casualty section.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-23575 Filed 8-4-80; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session 4 September 1980, at the Institute for Defense Analysis, 400 Army Navy Drive, Arlington, Virginia, 22202.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

July 29, 1980.

[FR Doc. 80-23296 Filed 8-4-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Tuesday and Wednesday, 16–17 September 1980, Pomponio Plaza, Rosslyn, Virginia

The entire meeting, commencing at 0900 hours each day, is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on foreign collection systems.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

July 30, 1980.

[FR Doc. 80-23449 Filed 8-4-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Intelligence Agency Advisory Committee; Closed Meetings

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that closed meetings of the DIA Advisory Committee will be held as follows:

Thursday and Friday, 16–17 October 1980, The Pentagon, Washington, D.C.

The entire meetings, commencing at 0900 hours each day, is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

July 30, 1980.

[FR Doc. 80-23450 Filed 8-4-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Handicapped Children's Early Education Program

AGENCY: Department of Education.

ACTION: Notice of closing date for transmittal of applications for handicapped children's early education program for fiscal year 1981.

Applications are invited for new demonstration projects for support of early education for handicapped children

Authority for this program is contained in sections 623 and 624 of Part C of Education of the Handicapped Act (20 U.S.C. (1423, 1424)).

The purpose of this program is to support a broad range of demonstration projects focusing on the education and development of handicapped children from birth to age eight. Emphasis is on services to children below age six. Public agencies and private non-profit organizations are eligible to apply.

Closing Date For Transmittal of Applications: Applications for new awards must be mailed or hand delivered by October 15, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention 84.024A, 400 Maryland Avenue, SW, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, SW, Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: Approximately $3 million is available for support of new Early Childhood Demonstration projects. Based on a mean grant amount in recent years of approximately $80,000 we expect that about 40 new grants will be awarded. Projects are funded for 3 years with annual renewal.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Program Development Branch, Office of Special Education, Department of Education, 400 Maryland Avenue, SW, (Donohoe, 3105), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed fifty (50) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: The following regulations are applicable to this program:

(a) Regulations governing the handicapped education program (45 CFR Parts 121 and 121d). Final regulations for Part 121d were published in the Federal Register on February 20, 1975, page 7416 to page 7419; and

(b) Education Division General Administrative Regulations (45 CFR Parts 100 and 100a which were published in the Federal Register on April 3, 1980, (45 FR 22493–22631) and which includes amendments to 45 CFR Part 121d (45 FR 22532). EDGAR will govern applications and grants under this program.

For Further Information Contact: William Swan, Program Development Branch, Office of Special Education, Department of Education, 400 Maryland Avenue, SW, (Room 3105, Donohoe Building), Washington, D.C. 20202. Telephone (202) 245–9722.

(20 U.S.C. 1423, 1424)

Dated: July 31, 1980.

Shirley M. Hufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance, No. 13.444A, Handicapped Children's Early Education Part I of OMB circular A-95 does not apply to this program)

[FR Doc. 80-23512 Filed 8-4-80; 8:45 am]

BILLING CODE 4000-01-M

Student Research; Closing Date for Transmittal of Applications

AGENCY: Department of Education.

ACTION: Notice of closing date for transmittal of applications for student research for fiscal year 1981.

Applications are invited for new projects for support of student directed research related to education of the handicapped.

Authority for this program is contained in sections 641 and 642 of Part E of Education of the Handicapped Act (20 U.S.C. 1441, 1442).

The purpose of this program is to support a broad range of research and research-related projects focusing on the education of handicapped children. The program is limited to projects initiated by and to be directed by students. Most projects support Doctoral dissertations or Master's theses, but this is not a requirement. Applications should be submitted through the student's college.

Closing Date for Transmittal of Applications: Applications for the first cycle awards must be mailed or hand delivered by October 10, 1980. Applications for the second cycle must be mailed or hand delivered by March 17, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.023A/B, 400 Maryland Avenue, SW, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: Approximately $250,000 is available for support of new Student Research projects. Based on a mean grant amount in recent years of approximately $8,000 we expect that about 30 new grants will be awarded. Most awards have been under $10,000 per year. Few projects are funded for more than 12 months, but multiyear projects are possible.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Research Project Branch, Office of Special Education, Department of Education, 400 Maryland Avenue SW, (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not required.

Applicable Regulations: The following regulations are applicable to this program.

(a) Regulations governing the handicapped education program (45 CFR Parts 121h). Final regulations for Part 121h were published in the Federal Register on August 18, 1978, pages 36634–36638, and amended in the Federal Register of April 3, 1980, page 22533. Proposed amendments to the funding criteria for research projects (45

CFR 121h.7) were published in the Federal Register on April 3, 1980 (45 FR 22812–22813). Those amendments are expected to become final and will govern all fiscal year 1981 awards. If the final amendments differ substantially from those proposed, the closing date for applications will be extended.

(b) Education Division General Administrative Regulations (45 CFR Parts 100a and 100c) which were published in the Federal Register on April 3, 1980, (45 FR 22493–22631). EDGAR will govern applications and grants under this program.

FOR FURTHER INFORMATION CONTACT:

Max Mueller, Research Projects Branch, Office of Special Education, Department of Education, 400 Maryland Avenue, SW, (Room 3165, Donohoe Building), Washington, DC, 20202, telephone (202) 245–2275.

(20 U.S.C. 1441, 1442)

Dated: July 31, 1980.

Shirley M. Hufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance, No. 13.443, Handicapped Research and Demonstration. Part I of OMB Circular A–95 does not apply to this program)

[FR Doc. 80-23513 Filed 8-4-80; 8:45 am]

BILLING CODE 4000-01-M

Office of Vocational and Adult Education

Discussion of Procedures Which Will Be Used To Develop Legislation Reauthorizing the Vocational Education Act; Open Meeting

AGENCY: Department of Education.

ACTION: Notice for interested organizations and individuals to attend a briefing on the reauthorization of the Vocational Education Act.

SUMMARY: The Department of Education (ED) will hold an open meeting to discuss the procedures it will use to develop legislation reauthorizing the Vocational Education Act. Interested groups and individuals are invited to attend a briefing on the Department's plan for reauthorization, the shedule for development of its legislative proposal, and the opportunities for public participation and comment during the process. The briefing will be conducted by principals responsible for the reauthorization effort. The date, time and place of the meeting is given in the next section of this notice.

SUPPLEMENTARY INFORMATION: The open meeting on the reauthorization of the Vocational Education Act will be held on Tuesday, August 12, 1980, in the Auditorium on the first floor of Regional Office Building No.3, 7th & D Streets, SW., beginning at 1:30 p.m.

FOR FURTHER INFORMATION CONTACT:

Ms. Sharon Berard, Office of Vocational and Adult Education, Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202, Telephone: (202) 245–8176.

Dated: July 31, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 23505 Filed 8-4-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Gasoline Marketing Advisory Committee; Change in Meeting Dates

Notice is hereby given of a change in meeting dates of the Gasoline Marketing Advisory Committee. The Committee will meet Thursday, August 21, 1980, and Friday, August 22, 1980, rather than Wednesday, August 20, 1980, and Thursday, August 21, 1980, as previously announced. A notice of meeting was published in the issue of July 28, 1980 (45 FR 49972). For further information contact the Advisory Committee Management Office at 202–252–5187.

Issued at Washington, D.C. on July 31, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-23554 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Technical Investigation of Power Outage by Municipal Electric Systems of Garland and Greenville, Tex.

AGENCY: Department of Energy Economic Regulatory Administration.

ACTION: Notice of a proposed technical investigation concerning recent power outages experienced by the municipal electric systems of Garland and Greenville, Texas.

SUMMARY: Economic Regulatory Administration (ERA) proposes to conduct a technical investigation into the total system blackout experienced by the municipal electric systems of Garland and Greenville, Texas. The investigation will center on the events which caused the blackout; the systems' restorative efforts; and the systems' emergency operation plans.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3825; and

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5E–064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–2900.

SUPPLEMENTARY INFORMATION: On June 26, 1980, the municipal electric systems supplying the cities of Garland and Greenville, Texas suffered a total system blackout, affecting more than 53,000 customers. The outage began as a limited blackout, became a total blackout by mid-afternoon, and ended by ten o'clock p.m. that evening.

In order to understand more fully the causes of this blackout; ERA will conduct a technical investigation of the blackout. At the conclusion of the investigation a report concerning the findings made by ERA will be published and submitted to Congress, pursuant to Section 311 of the Federal Power Act.

Specifically, the investigation will consider:

(1) The status of the systems immediately before the event(s) which caused the blackout;

(2) The sequence of events which occurred between the initial event precipitating the blackout and the total blackout;

(3) The restorative efforts made by the utilities;

(4) The adequacy of the systems' emergency operation and restoration plans prior to the blackout; and

(5) Any actions or new emergency procedures which should be implemented by the utilities.

Any person desiring to submit information concerning this investigation should do so to the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with Part I of the Rules of Practice and Procedure (18 CFR 1.1 *et seq.*).

Any such information should be filed on or before September 26, 1980; such information will be considered by ERA in determining the appropriate action to be taken.

Dated: July 29, 1980.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 80-23435 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy

Research Energy Research Advisory Board; Change in Meeting Agenda

This notice is to advise of additions to the agenda of the Energy Research Advisory Board meeting scheduled for August 18–22, 1980, in LaJolla, California. A notice of meeting was published in the July 30, 1980, issue of the Federal Register (45 FR 50634). The following additional R&D subpanels will hold working sessions in LaJolla, August 19–21, 1980, at times and locations posted in the lobby at 200 Prospect Street, LaJolla, California:

Fossil Energy R&D Subpanel.

Environment R&D Subpanel.

Additional information can be obtained by calling the Energy Research Advisory Board Office at 202–252–8933.

Issued at Washington, D.C. on July 31, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc.80-23553 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-368]

Boston Edison Co.; Order Accepting for Filing and Suspending Proposed Rates, Granting Interventions and Establishing Procedures

Issued: July 22, 1980.

On May 2, 1980, Boston Edison Company (Edison) submitted for filing two proposed rate increases. The first is for an increase of $840,803 in its rate for firm transmission service to New England Power Company (NEPCO), while the second proposed increase is for $123, 853 in its rate for non-firm transmission service to the Massachusetts towns of Braintree, Hingham, Hull, and Reading.[1] The proposed increases are supported by cost of service data for the test year ending on December 31, 1979. Certain additional data were filed by edison on May 23, 1980, which completed the filing.

The present Edison/NEPCO firm transmission rate is the result of a settlement agreement entered into in Docket No. E–8187, *et al.* This settlement provided, *inter alia,* that although Edison would be allowed to file for a rate increase during the period August 1, 1979 through July 31, 1980, Edison would be required to request suspension of the proposed rate until August 1, 1980. Accordingly, Edison has requested suspension to August 1. Edison requests an effective date of July 1, 1980, for its proposed non-firm transmission rates.

Notice of Edison's filing was duly issued on may 8, 1980, with comments due on or before May 30, 1980.

On May 28, 1980, the Municipal Light Board of reading, Massachusetts (Reading) filed a protest and request for intervention. Reading alleges that Edison's filing is far beyond reasonable transmission charges and requests that the proposed non-firm transmission rate be suspended for the full five month suspension period because of the magnitude of the proposed increase (35.3%).

On May 30, 1980, the Town of Norwood, Massachusetts (Norwood) and the Towns of Braintree and Hull, Massachusetts (Braintree and Hull) filed petitions to intervene. Norwood states that it is an all-requirements customer of Edison that is currently evaluating alternate energy sources which might necessitate utilization of Edison transmission services. In their joint petition to intervene, Braintree and Hull request that Edison'sproposed rates be suspended for five months because (1) the request for a rate of return on equity of 16% is excessive, (2) the cost allocatin requires further review, and (3) Braintree and Hull have not had sufficient time to analyze the filing.

Finally, on June 2, 1980, NEPCO filed an untimely petition to intervene. In its petition, NEPCO claims that it has a direct and substantial interest in this proceeding.

In its answer to the petitions to intervene and requests for a five month suspension. Edison generally denies the allegations concerning the magnitude of the increase and the propriety of its cost allocation. However, Edison states that it does not oppose the requests for intervention provided that such intervention be limited to the services that the intervenors are receiving.

Discussion:

Good cause exists to grant the petitions to intervene, including the untimely petition of NEPCO.

Our preminary analysis of Edison's submittal indicates that the proposed rate levels for transmission services do not appear excessive; however, certain customers allege that cost allocatins among Esison's classes of tranmission service may not be appropriate. Therefore, the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we will accept the rates for filing, and suspend them, to become effective subject to refund, for the periods discussed below.

As noted above, in the case of Edison's proposed firm transmission rate, Edison had, pursuant to its agreement with NEPCO, requested that the rate be suspended until August 1, 1980, subject to refund. Since our preliminary analysis indicates that the proposed rates may be unjust and unreasonable , we will suspend the filing until August 1, 1980, as requested by Edison. The length of the suspension period is for the purpose of accommodating the Settlement Agreement between Edison and NEPCO.

With respect to the proposed non-firm rate, Edison has requested an effective date of July 1, 1980—sixty days after the rates were originally filed. However, Edison's filing was not completed until May 23, 1980. Both our rules and the Federal Power Act require that a change in a rate schedule may not occur without sixty days notice to the public, unless good cause is shown to suspend the notice requirements. Edison has not shown good cause for waiver of the notice requirements.

The Commission Orders:

(A) Edison's proposed rate for firm transmission service is accepted for filing and suspended to become effective on August 1, 1980, subject to refund. The proposed non-firm transmission rate is accepted for filing and suspended for one day to become effective on July 24, 1980, subject to refund.

(B) All petitions to intervene are granted subject to the rules and regulations of the Commission; *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* That the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, specifically Sections 205 and 206, and by the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I (1979)), a public hearing shall be held concerning the justness and reasonableness of Edison's proposed rates.

(D) Staff shall serve top sheets in this proceeding on October 3, 1980.

(E) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that

[1] See Attachment A for rate schedule designations.

purpose shall convene a conference in this proceeding to be held within ten days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

Attachment A—Boston Edison Company

[Docket No. ER80-368]

Filed: May 23, 1980.

Dated: Undated.

Designation and Description

(1) First Revised Sheet No. 9 to FERC Electric Tariff, Original Vol. No. III (Supersedes Original Sheet No. 9 to FERC Electric Tariff, Original Vol. No. III).
Rate for Non-Firm Transmission Service.
(2) Supplement No. 1 to Original Sheet No. 10 to FERC Electric Tariff, Original Vol. No. III (Cancels Original Sheet No. 10).
Cancellation of Original Sheet No. 10.
(3) Supplement No. 1 to Original Sheet No. 11 to FERC Electric Tariff, Original Vol. No. III (Cancels Original Sheet No. 11).
Cancellation of Original Sheet No. 11.
(4) First Revised Sheet No. 19 to FERC Electric Tariff, Original Vol. No. IV (Supersedes Original Sheet No. 19 to FERC Electric Tariff, Original Vol. No. IV).
Rate for Firm Transmission Service.

[FR Doc. 80-23408 Filed 8-4-80; 8:45 am]
BILLING CODE 6450-85-M

[Dockets Nos. CP75-209 and RP72-155, et al.]

El Paso Natural Gas Co. et al.; Order Approving Stipulation and Settlement Agreement

Issued: July 23, 1980.

In the matter of El Paso Natural Gas Co., (CP75-209 and RP72-155) (PGA77-2 and 3) (PGA78-1 and 2); Texaco Inc., (CI75-594); Warren Petroleum Company, a Division of Gulf Oil Corp., (G-7156, G-13445 and CI72-760); Phillips Petroleum Co., (CI72-590); Gulf Oil Corp., (CI76-188); Texaco Inc., (CI79-216); Exxon Corp., (CI79-220); Mobil Producing Texas & New Mexico, Inc., (CI79-227); Robert U. Parish, (CS80-75); Frank B. Westerman, (CS80-96); Ceil W. Moore, (CS80-99); Betty H. Klein, (CS80-103); Bank of the Southwest, National Association, Houston, Trustee Under the Will of Jesse Andrews, Deceased, but not Otherwise, (CS80-114); The First National Bank of Midland, Texas, Trustee for Trust Acct. No. 797 and 798, (CS80-125).

On June 23, 1980, Southland Royalty Company, et al.;[1] Exxon Corporation (Exxon); Texaco Inc. (Texaco); Mobil Producing Texas & New Mexico, Inc. (Mobil); Crane County Development Company; Frank B. Westerman; Robert U. Parish; Tortuga Oil and Gas, Inc.; Triad Operating Company (Triad); Retama Oil Corporation; The First National Bank of Midland, Texas, Trustee for Trust Acct. No. 797 and 798; Ceil W. Moore; Betty H. Klein and Bank of the Southwest, National Association, Houston, Trustee Under the Will of Jesse Andrews, Deceased, but not Otherwise (hereinafter referred to as the "Producers"), submitted to the Commission a proposed Stipulation and Settlement Agreement in order to resolve by uncontested settlement the issues that are the subject of these proceedings.[2] El Paso Natural Gas Company (El Paso) has joined in the proposed settlement.

I. Background

The Settlement concerns certain surplus residue casinghead gas (the "subject gas") attributable to the Producers' interests and available for sale at the tailgates of the Waddell Gas Plant in Crane County, Texas (the "Waddell Plant") and the Goldsmith Gas Plant in Ector County, Texas (the "Goldsmith Plant"). Prior litigation involving the subject gas culminated in the United States Supreme Court's decision in *California* v. *Southland Royalty Company*, 436 U.S. 519 (1978).

This dispute arose out of certain 50-year fixed term oil and gas leases granted by Producers' predecessors to Gulf Production Company, now Gulf Oil Corporation (Gulf), in 1925. A portion of this gas was being produced by Gulf and processed in the Waddell Plant. Residue gas attributable to the Gulf production was then sold to El Paso at the outlet of the Waddell Plant under Rate Schedule Nos. 43 and 66 of Warren Petroleum Company, a Division of Gulf Oil Corporation (Warren). Prior to the expiration of the Waddell Lease, El Paso filed in Docket No. CP75-209 a petition for a declaratory order. El Paso contended that the subject gas from the Waddell Plant was dedicated to it. When the lease expired on July 14, 1975, El Paso was paying Warren $0.35 per Mcf at 14.65 psia pursuant to Opinion No. 662.

Texaco subsequently filed a petition for declaratory order in Docket No. CI75-594 with respect to the subject gas from the Goldsmith Plant. Texaco requested a declaration that the gas was not dedicated to interstate commerce. Gulf had been selling casinghead gas produced from the Goldsmith Lease to Phillips Petroleum Company (Phillips) under a percentage type contract. Phillips then sold the residue gas to El Paso under Phillips' Rate Schedule No. 497. Prior to expiration of the lease on August 7, 1975, Phillips' rate to El Paso was $0.35 per Mcf at 14.65 psia pursuant to Opinion No. 662.

On July 11, 1975, the Commission in Opinion No. 737, 54 FPC 145, ruled that Producers would be required to make deliveries of the subject gas to El Paso following the termination of the Gulf leases. Certain of the Producers immediately appealed to the Court of Appeals for the Fifth Circuit. An order providing interim protective relief was entered and was consented to by all parties. The Fifth Circuit's order granting interim protective relief subsequently was incorporated into the Commission's Opinion No. 737-A, 54 FPC 917, and was clarified in Opinion No. 737-B, 54 FPC 2821. The Producers entered into various interim agreements with El Paso for the continued delivery of the subject gas.

The Court of Appeals for the Fifth Circuit ultimately reversed the decision of the Commission in Opinion No. 737. The decision of the Fifth Circuit was appealed to the Supreme Court of the United States and in *California* v. *Southland Royalty Co.*, 436 U.S. 519 (1978), the Supreme Court reversed the Fifth Circuit. The decision of the Supreme Court in the *Southland* case was issued on May 31, 1978.

On November 9, 1978, the President signed the Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3340 (the "NGPA"). Producers contended that Section 2(18)(B)(iii) of the NGPA was intended to limit the effect of the Supreme Court's holding as it applied to the subject gas. Therefore, certain of the Producers instituted an action in the United States District Court for the Fort Worth Division of the Northern District of Texas, entitled *Southland Royalty Co., et al.* v. *El Paso Natural Gas Co.*, No. CA 4 78-397E (hereinafter referred

[1] Southland Royalty Company, *et al.*, includes Southland Royalty Company; Penn Resources, Inc.; Trustees under the Will of Warren Wright, deceased; William Y. Penn and the First National Bank of Dallas, Texas, Trustees; Nancy Elizabeth Penson; Elizabeth Hudson Penn, Trustee; Nancy Penson and John G. Penson, Trustees; and Lucille P. Markey and Gene Markey, individually.

[2] These proceedings were commenced before the Federal Power Commission. By joint regulation of October 1, 1977 (10 CFR § 1000.1), they were transferred to the Federal Energy Regulatory Commission.

to as the "Fort Worth litigation"). In this action, the Producers sought a declaration from the Court that from December 1, 1978 onward, the Producers could legally discontinue deliveries of the subject gas to El Paso. Concurrently, the Producers requested and received an interim protective order from the District Court. That order provided for the continuation of deliveries of the subject gas to El Paso, pending the final resolution of the case. The order stated that such deliveries will be without prejudice to the Producers and, if the Producers prevailed, El Paso would pay back volumes of gas delivered by the Producers during the pendency of the litigation.

On December 13, 1978, the Commission issued an order in Docket No. CP75–209, *et al.* The Commission required the Producers to make certain filings and stated its view that Producers "do not qualify for an exclusion from Commission jurisdiction under the Natural Gas Act by use of Section 2(18)(B) since the gas was still being sold in interstate commerce on May 31, 1978." Following the issuance of this order, the Commission intervened in the Fort Worth litigation and filed motions to dismiss, on the grounds that the Commission, rather than the District Court, had jurisdiction over the matter. No action has yet been taken on the motions to dismiss or on the merits of Producers' petition for a declaratory order.

The Producers, under protest, made the filings ordered by the Commission.[3] These filings included the interim agreements referred to above. The Producers filed an application for rehearing of the December 13, 1978 order. The application was denied by order issued February 9, 1979. The Producers appealed this denial to the Fifth Circuit where the matter is now pending in *Southland Royalty Company* v. *FERC*, Docket No. 79–1791 (5th Cir.). Meanwhile, the Producers, El Paso, representatives of the California Public Utilities Commission and the Commission Staff engaged in settlement discussions, which have resulted in the uncontested offer of settlement that is the subject of this Order.

II. Summary of Terms

The settlement provides:

(1) All of the subject gas attributable to the Producers' interests will be delivered to El Paso.

(2) Producers who qualified for a small producer certificate on the date of the reversion of the fixed term leases would be entitled to receive their contract rate from lease expiration until July 27, 1976, and the small producer replacement contract rate in effect from time to time thereafter: 67.6c per Mcf commencing July 27, 1976, with 1.3c per Mcf annual escalations commencing January 1, 1977; $0.771 per MMBtu commencing December 1, 1978, with monthly inflation adjustments under section 104 of the NGPA. Producers who on the date of reversion did not qualify for a small producer certificate would be entitled to the large producer replacement contract rate in effect from time to time: 51.0c per Mcf commencing upon the date of lease reversion with 1.0c per Mcf annual escalations commencing January 1, 1976; $0.593 per MMBtu commencing December 1, 1978, with monthly inflation adjustments under section 104 of the NGPA. The Producers generally may receive any higher rate to which they may be lawfully entitled from time to time under other sections of the NGPA. However, Exxon, Texaco and Mobil waive their right to seek any higher rates under section 106 for interstate rollover gas based upon execution of new contracts as contemplated by the offer.

(3) El Paso will pay Producers for past deliveries for which payment was made at prices less than those set forth above and Producers will refund with interest amounts they have received in excess of the above prices. Producers estimate the amount subject to refund as of October 31, 1979, was approximately $16,500,000. El Paso will flow through the net aggregate settlement proceeds received under the settlement to its customers. El Paso will be permitted to include in its rates all unrecovered costs of purchased gas incurred under this settlement in paying replacement contract rates. El Paso and the Producers will enter into new contracts covering the subject gas on mutually agreeable terms.

(4) Producers will file appropriate motions to dismiss the Fort Worth and Fifth Circuit litigation.

III. Related Applications

Abandonment applications were filed with the Commission by Phillips on August 21, 1975, in Docket No. C172–590, by Warren, on September 29, 1975, as amended on July 1, 1980, in Docket Nos. G–7156, G–13445, and CI72–760, and by Gulf on September 29, 1975, in Docket No. CI76–188. Phillips and Warren seek authorization to abandon service to El Paso and Gulf seeks authorization to abandon service to Phillips insofar as such service was reduced by reversion of the Waddell and Goldsmith Lease interests.

Certificate applications were filed by Texaco and Exxon on January 12, 1979, in Docket Nos. CI79–216 and CI79–220, respectively, and by Mobil on January 15, 1979, in Docket No. CI79–227 for authorization to make sales to El Paso from their reversionary interests.

Small producer applications were filed by the parties shown below.

Applicant	Docket No.	Filing date
Robert U. Parish	CS80–75	2–4–80
Frank B. Westerman	CS80–96	3–6–80
Cail W. Moore	CS80–99	3–17–80
Betty H. Klein	CS80–103	3–25–80
Bank of the Southwest, National Association, Houston, trustee under the will of Jesse Andrews, deceased, but not otherwise.	CS80–114	4–8–80
The First National Bank of Midland, Tex., trustee for trust account No. 797 and 798.	CS80–125	4–23–80

The remainder of the reversionary interest holders under the settlement are covered by existing small producer certificates shown below.

Small producer certificate holder	Docket No.
Southland Royalty Co	[1]CS66–114
Trustees under will of Warren Wright, Deceased.	CS76–33
William Y. Penn and First National Bank in Dallas, Trustees, et al.	CS76–34
Crane County Development Co	CS76–381
Retama Oil Corp	CS76–1124
Tortuga Oil and Gas, Inc	CS77–298
Triad Operating Co	CS77–368

[1] Southland's small producer certificate, which was terminated effective June 30, 1976, remains in effect as to contracts entered into prior to June 30, 1976 and will cover sales made pursuant to the new contract entered into under the terms of the Settlement.

El Paso has filed Purchased Gas Adjustments Rate Changes which have been accepted for filing, suspended for one day and permitted to become effective subject to refund by Commission orders issued in Docket No. RP72–155 on March 31, 1977 (PGA77–2), October 21, 1977 (PGA77–3), March 31, 1978 (PGA78–1) and September 29, 1978 (PGA78–2). These rate changes resulted in part from the purchased gas costs involved in this settlement.

IV. Basis for Proposed Rates

The Court in *Getty Oil Company* v. *FERC*, 10th Cir. No. 77–1993 (April 23, 1979), expanded the concept of a "contract expiration" to include a premature termination of a prior contract which occurred due to events not within the control of the parties. Expiration of the subject 50-year leases prior to the issuance of Opinion No. 770–A fits into the general category of cases covered by Getty. The expiration of the

[3] Exxon, Texaco, Mobil, Southland Royalty Company, *et al.*, and Triad made filings in compliance with the December 13, 1978 order.

leases was beyond the control of either the original seller or the buyer under the gas sales contract and thus the reversioner upon executing a new contract was entitled to "rollover" treatment.

The Court in *Jicarilla Apache Tribe* v. *FERC*, 578 F.2d 289 (10th Cir. 1978) ruled that the Tribe's election to take its royalty gas in kind did not constitute a purchase of gas from a large producer and therefore did not preclude small producer treatment even though the gas had been developed by other than small producer interests. Consistent with *Jicarilla*, the Producers who qualified for small producer certificates when the 1925 leases expired were not disqualified from small producer treatment when the interests reverted even though they acquired the reserves from Gulf, a large producer.

After due notice by publication in the Federal Register, no protests or petitions to intervene in opposition have been filed. Michigan Wisconsin Pipe Line Company filed petitions to intervene on October 22, 1975 in Docket Nos. G–7156, G–13445 and CI76–188. El Paso filed petitions to intervene in Docket Nos. G–7156 and G–13445 on October 28, 1975, in Docket No. CI76–188 on November 5, 1975 and in Docket No. CI72–590 on October 1, 1975. Exxon on October 29, 1975 and Pacific Gas and Electric Company on November 6, 1975 filed petitions to intervene and The People of the State of California and the Public Utilities Commission of the State of California on November 6, 1975 filed a notice of intervention in Docket Nos. G–7156 and G–13445. Continental Oil Company on November 3, 1975 and Phillips on November 7, 1975 filed petitions to intervene in Docket No. CI76–188. Transwestern Pipeline Company and Texas Eastern Transmission Corporation filed petitions to intervene on March 28, 1980 in Docket Nos. CS80–96 and CS80–99.

At a hearing held the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Upon consideration of the settlement and the record in this proceeding, the Commission finds that the Settlement Agreement appears to be fair and reasonable and in the public interest.

(2) The public convenience and necessity permit the abandonments proposed by Warren, Phillips and Gulf with respect to their sales from the subject leases.

(3) It is appropriate to issue certificates of public convenience and necessity to Texaco, Exxon and Mobil for sales from their reversionary interests.

(4) It is appropriate to issue small producer certificates to the small producer applicants herein for sales from their reversionary interests.

(5) The suspension proceedings for El Paso's PGA filings, related to its purchased gas costs involved in this settlement, should be terminated.

(6) Participation by intervenors in the dockets in which they filed may be in the public interest.

The Commission orders:

(A) The settlement, including the prices to be paid the Producers provided for therein, is accepted and approved by the Commission as a resolution of the matters currently pending before the United States District Court for the Northern District of Texas, Fort Worth Division, in *Southland Royalty Company, et al.* v. *El Paso Natural Gas Company*, No. CA 4 78–397, and before the United States Court of Appeals for the Fifth Circuit in *Southland Royalty Company* v. *FERC*, Docket No. 79–1791. Accordingly, Producers shall file appropriate motions to dismiss those proceedings. In accordance with 18 CFR 1.18(e)(1)(iii), the Commission's approval of this settlement shall not constitute approval of or a precedent regarding any principle or issue in these proceedings.

(B) Permission for and approval of the partial abandonment of service by Warren, in Docket Nos. G–7156, G–13445, and CI72–760 by Phillips in Docket No. CI72–590 and by Gulf in Docket No. CI76–188, as hereinbefore described and as more fully described in the applications and tabulation herein, are granted. The orders issuing certificates of public convenience and necessity in Docket Nos. G–7156, G–13445, CI72–590 and CI72–760 are amended to reflect the partial abandonment of service, all as more fully described in the applications and in the tabulation herein. In all other respects such orders shall remain in full force and effect.

(C) Certificates of public convenience and necessity are issued to Texaco in Docket No. CI79–216, Exxon in Docket No CI79–220 and Mobil in Docket No. CI79–227 authorizing sales from their reversionary interests and are conditioned subject to Opinion Nos. 699 and 770, as amended, to provide that for sales from the respective effective dates of lease reversion through November 30, 1978, the rates shall be the lesser of the contract rate or the national rate applicable to replacement contracts, 51.0¢ per Mcf at 14.73 psia plus tax reimbursement, subject to upward and downward Btu adjustment from a 1,000 Btu base plus 1.5¢ per Mcf gathering allowance where applicable, with 1.0¢ per Mcf annual escalations commencing January 1, 1976. For sales on or after December 1, 1978, the certificates are conditioned to the lesser of the contract rate or the applicable maximum lawful price prescribed in Section 104(b) of the Natural Gas Policy Act of 1978 for replacement contract gas and shall escalate for subsequent months by the monthly equivalent of the annual inflation adjustment factor applicable for such month as prescribed in Section 104(b)(1)(A)(ii). Automatic collection of the monthly inflation adjustments prescribed in Section 104(b)(1)(A)(ii) shall not be effective until Applicant files the blanket affidavit established in Order No. 15 covering such sale or subsequently files the statement of inclusion specified in Section 154.94(h)(3)(ii) thereof.

(D) Each applicant in Docket Nos. CI79–216, CI79–220 and CI79–227 may not collect any rate in excess of the rate authorized in Ordering Paragraph (C) above unless (i) it complies with the Part 273 interim collection procedure, (ii) a final determination has been made by the jurisdictional agency under Part 274, or (iii) a final non-appealable action has been taken by the Commission in accordance with Section 275.202 of the regulations relating to Section 503(e) of the Natural Gas Policy Act of 1978, and where necessary, Applicant has satisfactorily complied with the requirements of Order No. 25. Producers will be entitled to charge prices higher than those set forth in Ordering Paragraph (C) and to collect additional allowances or reimbursements for which any of the gas qualified or will qualify under the provisions of the Natural Gas Act, NGPA, any Commission rule, regulation, or order, or by virtue of deregulation, legislation or otherwise, all as provided for under the settlement.

(E) The certificates granted in Ordering Paragraph (C) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(F) The certificates issued in Ordering Paragraph (C) above authorize sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any

facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation hereto.

(G) The grant of the certificates issued in Ordering Paragraph (C) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customer involved does not imply approval of all the terms of the contracts, particularly as to the cessation of the service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(H) Section 154.93 of the Commission's Regulations is hereby waived to permit filing of the contracts related to the authorizations granted in Ordering Paragraph (c) above which contain impermissible pricing provisions. The granting of such waiver, however, does not constitute approval of such provisions and any rate increase based on said pricing provisions to the extent it is inconsistent with the provisions of § 154.93 of the Commission's regulations is subject to rejection.

(I) Applicants in Docket Nos. CI79–216, CI79–220 and CI79–227 shall submit three copies of a revised billing statement which clearly reflects each component of the authorized rate (base rate, tax reimbursement, Btu adjustment and gathering allowance where applicable), for each time period through November 30, 1978, and three copies of a statement setting forth the maximum lawful price on December 1, 1978, in accordance with Ordering Paragraph (C) above within thirty days of the issuance of this Order.

(J) Applicants authorized in Ordering Paragraph (C) above shall file a written waiver of refund credits and contingent escalations pursuant to § 2.56a(i) of the regulations within thirty days of the issuance of this Order.

(K) The rate schedule and rate schedule supplements related to the authorizations granted herein are accepted for filing, all as more fully set forth in the tabulation herein.

(L) Small producer certificates are issued to the Applicants listed in the Appendix to be effective as of the filing dates of their respective applications.

(M) The certificates granted in Ordering Paragraph (L) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act, the applicable rules, regulations and orders of the Commission, and particularly:

(1) The certificates shall be applicable to sales by Applicants from the subject leases and to small producer sales as defined in § 157.40(a) of the Regulations under the Natural Gas Act.

(2) Applicants shall file annual statements pursuant to § 154.104 of the Regulations under the Natural Gas Act.

(3) For any sales made on or after July 27, 1976, through November 30, 1978, Applicants are limited to the lesser of the contract rate or the applicable rate ceiling prescribed in Section 157.40(c) of the Regulations under the Natural Gas Act, and for any sales thereafter Applicants may not exceed the lesser of the contract rate or the price prescribed in § 157.40(c)(1)(v) as set forth in Order No. 15, issued November 17, 1978 in Docket No. RM79–4, and Order No. 25, issued March 27, 1979 in Docket No. RM79–31.

(4) No Applicant may collect any rate in excess of the rate authorized in (3) above unless (i) it complies with Part 273 interim collection procedure, (ii) a final determination has been made by the jurisdictional agency under Part 274, or (iii) a final nonappealable action has been taken by the Commission in accordance with § 275.202 of the regulations relating to Section 503(e) of the Natural Gas Policy Act of 1978. Producers will be entitled to charge prices higher than those set forth in Ordering Paragraph (M)(3) and to collect additional allowances or reimbursements for which any of the gas qualified or will qualify under the provisions of the Natural Gas Act, NGPA, any Commission rule, regulation or order, or by virtue of deregulation, legislation or otherwise, all as provided for under the settlement.

(N) The certificates granted in Ordering Paragraph (L) above shall remain in effect for small producer sales until terminated in accordance with § 157.40(d) of the Regulations under the Natural Gas Act. Upon such termination, Applicants will be required to file separate certificate applications and individual rate schedules for future sales which may be subject to the Natural Gas Act. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(O) With respect to any small producer sale made pursuant to the authorization herein, the small producer shall not be relieved from compliance with Section 7(b) of the Natural Gas Act.

(P) The submittals received January 12, 1979, in Docket Nos. CS66–114, CS76–33 and CS76–34 and January 15, 1979, in Docket No. CS77–368 are accepted in satisfactory compliance with the Commission's order issued December 13, 1978, in Docket Nos. CP75–209, *et al.*

(Q) The producer in Docket Nos. CS66–114, CS76–33 and CS76–34 are advised that the proposed large producer rate schedules submitted October 20, 1975, in response to the Commission's Opinion No. 737–A, are considered withdrawn as being unnecessary in view of their election to cover the reversionary interest sales under the small producer certificates pursuant to filing requirement (2) of the Commission's December 13, 1978 order in Docket Nos. CP75–209, *et al.*

(R) In the event the pipeline purchaser incurs costs associated with processing, dehydration, compression or other conditioning of the subject gas and seeks to include these costs in its rates, the pipeline purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. This condition is subject to whatever action is taken by the Commission on rehearing in Docket Nos. CI77–412, CP77–558 and CP77–577.

(S) Suspension proceedings in Docket No. RP72–155 under orders issued March 31, 1977 (PGA77–2), October 21, 1977 (PGA77–3), March 31, 1978 (PGA78–1) and September 29, 1978 (PGA78–2) with respect to the purchased gas costs involved in this settlement are terminated.

(T) El Paso shall be permitted to flow through to its customers in its future purchased gas cost adjustment or general rate increase filings the cost of purchased gas not otherwise recovered under the settlement but attributable to the replacement contract rates approved by this order.

(U) Petitioners are permitted to intervene in the dockets in which they filed subject to the Rules and Regulations of the Commission; *Provided, however,* that the participation of such intervenors shall

be limited to matters affecting asserted rights and interests as specifically set forth in their respective petitions to intervene; and *Provided, further,* that the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in these dockets.

By the Commission.
Kenneth F. Plumb,
Secretary.

Appendix

Applicant	Docket No.	Filing date
Robert U. Parish	CS80-75	2-4-80
Frank B. Westerman	CS80-96	3-6-80
Ceil W. Moore	CS80-99	3-17-80
Betty H. Klein	CS80-103	3-25-80
Bank of the Southwest, National Association, Houston, trustee under the will of Jesse Andrews, deceased, but not otherwise	CS80-114	4-8-80
The First National Bank of Midland, Tex., trustee for trust account No. 797 and 798	CS80-125	4-23-80

Docket No. and filed date	Applicant	Purchase and location	FPC gas rate schedule		
			Description and date of document	Number	Supp.
G-7156, G-13445, CI72-760 [16] B [1] Sept. 29, 1975.	Warren Petroleum Co., a Division of Gulf Oil Corp. (Operator).	El Paso Natural Gas Co., Waddell Gas Processing Plant, Crane County, Tex.	Notice of Partial Cancellation [2] (undated) (Eff. date: July 14, 1975) [3].	43	32
			Notice of Partial Cancellation [2] (undated) (Eff. date: July 14, 1975) [3].	66	19
CI-76-168, B [4] Sept. 29, 1975 [5]	Gulf Oil Corp.	Phillips Petroleum Co., Goldsmith Field, Ector County, Tex.			
CI-72-590, B [7] Aug. 21, 1975 [8]	Phillips Petroleum Co., (Operator), *et al.*	El Paso Natural Gas Co., Goldsmith Plant, Ector County, Tex.	Notice of Partial Cancellation [2] (undated) (Eff. date: Aug. 7, 1975) [3].	497	18
CI-79-220, [9] Jan. 12, 1979 [9]	Exxon Corp	El Paso Natural Gas Co., Waddell Field, [10] Crane County, Tex.	Letter Agree. [11] July 14, 1975 Letter Agree. Oct. 1, 1976 (Eff. date: July 19, 1975) [12].	652 652-1	
CI-79-227, [9] Jan. 15, 1979	Mobil Producing Texas and New Mexico, Inc.	El Paso Natural Gas Co., Waddell Field, [10] Crane County, Tex.	Letter Agree. [11] Nov. 20, 1975 (Eff. date: July 15, 1975) [12].	159	
CI-79-216, [9] Jan. 12, 1979 [9]	Texaco Inc	El Paso Natural Gas Co., Goldsmith Field, [14] Ector County, Tex.	Letter Agree. [11] Aug. 8, 1975 (Eff. date: Aug. 8, 1975) [12].	584	

[1] Application to partially abandon the sale to El Paso insofar as it pertains to the interests of the reversionary mineral owners in the Waddell Lease who are selling directly to El Paso.
[2] Contract summary construed as Notice of Partial Cancellation.
[3] Date of expiration of 50-year lease.
[4] Application to partially abandon a percentage sale to Phillips insofar as it pertains to the interests of the reversionary mineral owners in the Goldsmith Lease who are selling directly to El Paso.
[5] Additional material received december 26, 1979.
[6] Sale made under percentage contract.
[7] Application to partially abandon the sale to El Paso insofar as it pertains to the interests of the reversionary mineral owners in the Goldsmith Lease who are selling directly to El Paso.
[8] Filing by reversionary interest owner for authorization to continue sale of gas upon expiration of 50-year lease in compliance with Opinion Nos. 737 and 737-A issued July 11 and September 3, 1975, respectively, and Order Requiring Filing Issued December 13, 1978.
[9] Initial rate filing submitted July 17, 1975. Additional filings received October 10, 1975, November 26, 1975, January 12, 1979 and January 29, 1979.
[10] Residue gas delivered at tailgate of Waddell Gasoline Plant operated by Warren Petroleum Company, a Division of Gulf Oil Corporation.
[11] Provides for sale on a day to day basis commencing on date of lease reversion.
[12] Effective date when interest reverted to Applicant upon expiration of 50-year lease.
[13] Initial rate filing submitted October 20, 1975.
[14] Residue gas delivered at tailgate of Goldsmith Gasoline Plant operated by Phillips Petroleum Company.
[15] On July 1, 1980, Applicant requested that its application be amended to include appropriate references to Docket No. CI72-760 and its related FERC Gas Rate Schedule No. 66 in connection with termination of Gulf's Waddell Lease on July 14, 1975.

Filing code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-23412 Filed 8-4-80; 8:45 am]
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[Docket No. ER80-542]

Florida Power Corp.; Notice of Filing

July 28, 1980.

The Filing Company submits the following:

Take notice that on July 22, 1980 Florida Power Corporation ("Florida Power") tendered for filing an executed transmission service agreement with the City of Vero Beach, Florida. Florida Power states that the form of service agreement was provided in its transmission tariff on file with the Federal Energy Regulatory Commission. Florida Power requests that the service agreement be made effective on September 20, 1980. Florida Power states that copies of the filing have been served on the City of Vero Beach, Florida, and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of Florida Power's application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-23413 Filed 8-4-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-541]

Florida Power Corp.; Notice of Filing

July 28, 1980.

The Filing Company submits the following:

Taken notice that on July 22, 1980, Florida Power Corporation ("Florida Power") tendered for filing an executed transmission service agreement with the Lake Worth Utilities Authority. Florida Power states that the form of service agreement was provided in its transmission tariff on file with the Federal Energy Regulatory Commission. Florida Power requests that the service agreement be made effective on September 20, 1980. Florida Power states that copies of the filing have been served on the Lake Worth Utilities Authority and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.18 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of Florida Power's application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23414 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. ER80-411, ER80-417, and ER80-438]

Florida Power & Light Co. Order Accepting in Part for Filing and Rejecting in Part Supplements to Service Agreements

Issued July 22, 1980.

By letters dated May 21, May 28, and June 3, 1980,[1] Florida Power & Light Company (FP&L) submitted for filing supplements to Service Agreements under its Transmission Tariff with the Jacksonville Electric Authority, Lake Worth Utilities Authority, and New Smyrna Beach Utilities Commission, providing for additional wheeling under FP&L's transmission tariff.[2] FP&L also submitted amendments to its now superseded individual transmission agreements with the above customers providing for the same additional wheeling services.[3]

On June 23, 1980, the Lake Worth Utilities Authority and New Smyrna Beach Utilities Commission (Petitioners) filed a "Protest and Request for Suspension and Consolidation" in Docket Nos. ER80-417 and ER80-438. The Petitioners object to FP&L's filing of amendments to its now superseded individual transmission contracts as well as supplements to service agreements under the Tariff. Petitioners request that the supplements to the transmission service agreements under the tariff be accepted for filing, that such supplements be suspended and that Docket No. ER80-417 and ER80-438 be consolidated with Docket No. ER79-18, *et al.* FP&L filed a reply to this Protest on July 8, 1980.

FP&L's submittal of amendments to previously effective individual transmission agreements is inappropriate since such agreements have been superseded by FP&L's transmission tariff. Accordingly, such amendments are rejected pursuant to Section 35.5 of the Commission's regulations.

The supplements to the transmission service agreements submitted by FP&L herein simply provide for additional service under FP&L' filed tariff under terms, conditons and rates which are subject to refund in Docket No. ER78-19, *et al.* No additional findings of fact or determinations of law are necessitated by the supplementary filings in the present dockets because no new issues have been raised.

Docket number are automatically assigned to service agreements such as these when they are filed with the Commission however, suspension of the supplements and consolidation of the these dockets with Docket No. ER78-19, *et al.*, is inappropriate and unnecessary.[4] For purposes of administrative efficiency we shall terminate Docket Nos. ER80-411, ER80-417, ER80-438. The supplements are accepted for filing to become effective pursuant to the Commission's order of May 14, 1980, in Docket Nos. ER78-19, *et al.*

The Commission orders:

(A) The amendments to the superseded individual transmission agreements are rejected.

(B) The supplements to the service agreements under FP&L's current transmission tariff are accepted for filing, effective pursuant to the commission's May 14, 1980 order in Docket No. ER78-19, et al. accepting and suspending that tariff.

(C) Docket Nos. ER80-411, 417, and 438 are hereby terminated.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[1] We note that FP&L has by letters dated June 23 (ER80-479, 480), June 24 (ER80-486), and June 30, 1980 (ER80-496-501) made very similar if not identical filings. Because of this similarity, it is our intention that such filings be handled by the Director of the Office of Electric Power Regulation pursuant to Section 3.5(g) of the Commission's regulations.

[2] See Attachments for Supplements to Service Agreements.

[3] By orders issued December 21, 1979, and February 21, 1980, FP&L was directed to submit a transmission tariff and related service agreements in substitution for numerous individual transmission agreements. By order issued May 14, 1980, in Docket No. ER78-19, FP&L's tariff was accepted, superseding all individual contracts.

[4] Since petitioners are intervenors in Docket No. ER78-19, they will have full opportunity to be heard on the necessary issues.

Attachment.—*Florida Power & Light Co.*

Filed: (1)-(4) May 21, 1980; (5)-(8) May, 1980; (9) & (10) June 3, 1980.

(1) thru (10) below are designated as Supplements and Exhibits to Service Agreements under FERC Electric Tariff Original Volume No. II (Sheet Nos. 1-19).

Docket No.	Designation	Description	Other party	Effective dates
(1) ER80-411	Supplement No. 6	Exhibit I (Service Specifications)	Jacksonville Electric Authority (JEA).	Apr. 10, 1980.
(2) ER80-411	Exhibit A to Supplement No. 6	Appendix A (Contract dated Sept. 4, 1979)	JEA with New Smyrna Beach, Fla.	NA.
(3) ER80-411	Supplement No. 7	Exhibit I (Service Specifications)	JEA	Apr. 10, 1980.
(4) ER80-411	Exhibit A to Supplement No. 7	Appendix A (Contract dated Mar. 20, 1980)	JEA with Gainesville, Fla.	NA.

Docket No.	Designation	Description	Other party	Effective dates
(5) ER80-417	Supplement No. 8	Exhibit I (Service Specifications)	Lake Worth Utilities Authority (Lake Worth).	May 20, 1980.
(6) ER80-417	Exhibit A to Supplement No. 8	Appendix A (Contract dated Feb. 18, 1980)	Lake Worth with Lakeland, Fla.	NA.
(7) ER80-417	Supplement No. 8	Exhibit I (Service Specifications)	Lake Worth	May 20, 1980.
(8) ER80-417	Exhibit A to Supplement No. 9	Appendix A (Contract dated Mar. 18, 1980)	Lake Worth with Vero Beach, Fla.	NA.
(9) ER80-438	Supplement No. 10	Exhibit I (Service Specifications)	Utilities Commission of New Smyrna Beach.	June 3, 1980.
(10) ER80-438	Exhibit A to Supplement No. 10	Appendix A (Contract dated Mar. 18, 1980)	Utilities Commission of New Smyrna Beach, Fla.	NA.

[FR Doc. 80-23415 Filed 8-4-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-426]

Granite State Gas Transmission, Inc.; Notice of Application

July 28, 1980.

Take notice that on June 24, 1980, Granite State Gas Transmission, Inc. (Applicant), 120 Royall Street, Canton, Massachusetts 02021, filed in Docket No. CP80-426 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the sale of natural gas on a firm basis under a contract demand type of service to its existing jurisdictional customer, Northern Utilities, Inc. (Northern), and to a new jurisdictional customer, Bay State Gas Company (Bay State); (2) the establishment of four new off-system delivery points in connection with the foregoing sale to Bay State; and (3) the inauguration of a storage service and a storage-related transportation service for the benefit of its jurisdictional customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it purchases its entire supply of natural gas from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and in turn sells the gas to its parent company, Northern. It is stated that Tennessee also supplies gas to Bay State and that Bay State acquired Northern on October 30, 1979. Applicant herein proposes in the interest of economy and flexibility of scheduling to combine the separate purchase contracts now existing between Tennessee and Applicant and Tennessee and Bay State into a single contract with Tennessee. Pursuant to this arrangement, Applicant asserts it would become the sole purchaser of gas from Tennessee under Tennessee's Rate Schedule CD-6 of up to 83,921 Mcf a day, which is the aggregate of the maximum daily volumes in the two present contracts. Applicant further states that it would execute new service agreements with Bay State and Northern providing for firm contract demand deliveries of 64,141 Mcf to Bay State and 18,226 Mcf to Northern. Moreover, Applicant states that when seasonal entitlements from Tennessee are insufficient to satisfy Northern's winter heating season requirements, Bay State would make available limited supplementary supplies received from Tennessee at Massachusetts delivery points of approximately 5,260 Mcf a day and up to 250,000 Mcf annually for Applicant at the Pleasant Street delivery point, Haverhill, Massachusetts. Applicant states that on days when Northern does not require full firm contract demand, it would deliver the additional gas to Bay State throughout the Tennessee connections in Massachusetts, and within the limits of the total aggregate contract demand volume of 83,921 Mcf.

In order to effect deliveries to Bay State, Applicant requests authorization to establish four off-system delivery points to Bay State in Northhampton, Agawam, East Longmeadow and Lawrence, Massachusetts, which are the present locations of Tennessee's deliveries to Bay State. Applicant states that no new facilities are required as Tennessee has agreed to let Applicant utilize the existing connections. Also, Applicant states that deliveries would be made to Northern at points in Maine and New Hampshire where existing deliveries are made.

It is further asserted that Bay State has a long-term storage service contract with Consolidated Gas Supply Corporation (Consolidated) in which Consolidated proposes to make available up to 1,622,660 dekatherms (dt) equivalent of storage capacity and to provide a daily withdrawal volume of up to 14,752 dt equivalent for Bay State. It is also stated that Bay State has a related transportation service agreement with Tennessee under which Tennessee proposes on a best-efforts basis to transport to and from storage for Bay State up to 13,956 Mcf of gas per day or 1,535,164 Mcf seasonally. Applicant avers that these arrangements would be assigned to it and that Consolidated and Tennessee are agreeable to the assignment. Under these arrangements, Applicant states it would nominate storage injection volumes out of its contract demand volume with Tennessee; Tennessee would deliver the injection volumes to a Consolidated storage field; Consolidated would store the volume, subject to withdrawal by Applicant. Tennessee would transport the withdrawn volumes for delivery to Applicant, and Applicant would in turn deliver the storage gas either to Bay State or Northern.

Applicant proposes to render firm service to Bay State under Applicant's new Rate Schedule CD-1, First Revised Volume No. 1. Because, it is stated, Tennessee would deliver Bay State's gas at existing connections for the account of Applicant, Applicant's initial demand and commodity rates under its Rate Schedule CD-1 would be the same as the currently effective Tennessee Rate Schedule CD-6. Applicant asserts that its semi-annual purchased gas cost adjustments applicable to its Rate Schedule CD-1 rates would track the changes in Tennessee's CD-6 rates.

Applicant states firm service to Northern would be rendered under Applicant's proposed Rate Schedule CD-2. It is asserted that the rates for such service would be based on the same procedure currently in effect for determining Applicant's jurisdictional rates for sales to Northern.

Applicant wishes to render its storage service and the storage related transportation service by contracting with Consolidated and Tennessee for such service, and in turn, contracting with Bay State to render the service for the same daily and seasonal volumes in the previous arrangements between Bay State and Consolidated and between Bay State and Tennessee. Applicant states it would establish the rates for the storage transportation under its new Rate Schedule ISST and the storage

service under its new Rate Schedule GSS, First Revised Volume No. 1. It is further stated that the rates for the storage transport service and for the storage service would be identical with the rates under Tennessee's proposed Rate Schedule ISST–NE and Consolidated's Rate Schedule GSS. Applicant contends that the purpose of the new rate schedules is to promote a tariff mechanism through which Applicant can pass on the charges by Tennessee and Consolidated to Bay State and/or Northern.

Applicant maintains that it would merely be an accounting conduit for billing Bay State for charges incurred by Applicant for Consolidated's storage service and Tennessee's storage transportation service and so requests permission to track the suppliers' rates for these services coincidental with changes in such rates from time to time.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23416 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CP66-112, et al.]

Great Lakes Gas Transmission Co. and Michigan Wisconsin Pipeline Co.; Notice of Petition To Amend

July 28, 1980.

Take notice that on June 25, 1980, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP66–112, (Docket Nos. CP66–12, CP66–110, *et al.*, CP70–20, CP70–19, *et al.*, CP71–223, CP71–222, *et al.*, and Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79–169 a joint petition to amend the order issued September 25, 1979, in the instant dockets pursuant to Sections 3 and 7 of the Natural Gas Act so as to authorize a one-year extension for the importation, sale and transportation by Great Lakes of natural gas to Midwestern Gas Transmission Company (Midwestern), and a one year extension of the transportation service by Mich Wisc for Natural Gas Pipeline Company of America (Natural) and Tennessee Gas Pipeline Company, a Divison of Tenneco Inc. (Tennessee), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that the Commission authorized Great Lakes and Midwestern to import 18,000,000 Mcf and 114,000,000 Mcf of natural gas, respectively, for resale during a term ending October 31, 1980, purchased from TransCanada Pipelines Limited (TransCanada). It is also noted that Great Lakes was authorized to transport up to 132,000,000 Mcf of gas for Midwestern's account from the Emerson, Manitoba, interconnection to the interconnection of Great Lakes' facilities with those of Northern Natural Gas Company (Northern), Division of InterNorth, Inc. However, it is stated, due to daily and annual restrictions in the export authorization of TransCanada, Great Lakes has imported and sold only approximately 5,400,000 Mcf of the 18,000,000 Mcf authorized therein. Similarly, Petitioners contend that there is no likelihood that the remaining 87,500,000 Mcf of the total authorized volumes can be imported by October 31, 1980, and that there would be substantial need of these volumes during the 1980–81 winter season. Consequently, Petitioners request and extension for a one-year period ending October 31, 1981, to continue the importation, sale and transportation of the Canadian gas.

Petitioners state that Midwestern was given permission to sell up to 132,000,000 Mcf of the Canadian gas to Northern, Natural and Tennessee. Pursuant to transportation agreements dated January 9, and 23, 1979, Mich Wisc has agreed to provide transportation service for the account of Natural and Tennessee, respectively. Incidental to the herein proposed extension for the importation of the gas, Mich Wisc requests a similar one year extension until October 31, 1981, for its transportation service for Natural and Tennessee.

It is further stated that on June 5, 1980, TransCanada filed an application with the National Energy Board of Canada for amendments to the export license for extension of the related export authorizations for a one year period.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23417 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3236]

Gordon Falls Hydro Associates; Notice of Application for Preliminary Permit

July 28, 1980.

Take notice that Gordon Falls Hydro Associates (Applicant) filed on July 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3236 to be known as Gordon Falls Project located on the Mattawamkeag River, near the Town of Kingman, Penobscot County, Maine.

Correspondence with the Applicant should be directed to: Peter F. O'Connell, Gordon Falls Hydro Associates, 140 Lisbon Street, Lewiston, Maine 04240.

Project Description—The proposed project would consist of: (1) a new 380-foot long, 55-foot high concrete dam; (2) a powerhouse built integrally to the dam containing two turbine/generator units, with a total rated capacity of 15.9 MW; (3) a reservoir with a surface area of 20,200 acres and a usable storage capacity of 15,740 acre feet at a normal water surface elevation of 340 feet m.s.l.; and (4) appurtenant facilities. The proposed project would generate up to 56,474,000 kWh annually saving the equivalent of 92,700 barrels of oil or 26,200 tons of coal.

Purpose of Project—Markets for the electric energy produced would be determined during the term of the preliminary permit.

Proposed Scope and Cost of Studies under Permit—The work proposed under this preliminary permit would include geotechnical investigations at the site of the proposed dam, engineering plans, and an environmental assessment. Geotechnical investigations would include a boring program in the vicinity of the axis of the proposed dam. Applicant states that all disturbed areas would be regarded and restored. Based on results of these studies. Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost $700,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have not comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 26, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 25, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended*, 44 *Fed. Reg.* 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before September 26, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23418 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-37]

Independent Oil & Tire Co.; Notice of Filing of Petition for Review Under 42 U.S.C. 7194

July 21, 1980.

Take notice that Independent Oil & Tire Co. on June 9, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 4, 1980, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc 80-23419 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-540]

The Kansas Power Light Co.; Notice of Filing

July 28, 1980.

The filing Company submits the following:

Take notice that on July 22, 1980, the Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated July 7, 1980 with the City of Morrill, Kansas for wholesale service to that community. KPL states that this is a renewal of a similar contract dated February 2, 1970 and designated KPL Rate Schedule FPC No. 121. The proposed effective date is August 1, 1980 and KPL reqests that the Commission waive the notice requirements as allowed in Section 35.11 of its Regulations. According to KPL, the net billing for the twelve months succeeding the proposed change in agreements will be $48,904.43. In addition, KPL states that copies of the contract have been mailed to the City of Morrill and the State Corporation Commission in Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and

procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 18, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23420 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-76]

Little America Refining Co.; Notice of Filing of Petition for Review Under 42 U.S.C. 7194

July 29, 1980.

Take notice that Little America Refining Co. on July 17, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 12, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc 80-23421 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-49]

Mardiros Torikian; Notice of Filing of Petition for Review Under 42 U.S.C. 7194

July 29, 1980.

Take notice that Mardiros Torikian on June 2, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 12, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23422 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3238]

Marsh Island Hydro Associates; Application for Preliminary Permit

July 28, 1980.

Take notice that Marsh Island Hydro Associates (Applicant) filed on July 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3238 to be known as the Marsh Island Project located on the Penobscot River, near the Town of Orono, in Penobscot County, Maine. Correspondence with the Applicant should be directed to: Peter F. O'Connell, Marsh Island Hydro Associates, 140 Lisbon Street, Lewiston, Maine 04240.

Project Description—The proposed project would consist of: (1) a new 720-foot long, 40-foot high concrete dam with earth fills wing dikes each 200 feet long and 40 feet high; (2) a 724-acre reservoir with no appreciable storage capacity; (3) a powerhouse built integrally with the dam containing three turbine/generators with a total rated capacity of 29.6 MW; and (4) appurtenant facilities. The proposed run-of-the-river project would generate up to 104,900,000 kWh annually saving the equivalent of 172,200 barrels of oil or 48,600 tons of coal.

Purpose of Project—Markets for the electric energy produced would be determined during the term of the preliminary permit.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include geotechnical investigations at the site of the proposed dam, engineering plans, and an environmental assessment. Geotechnical investigations would include a boring program in the vicinity of the axis of the proposed dam. Applicant states that all disturbed areas would be regraded and restored. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost $700,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 26, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the

competing application no later than November 25, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended,* 44 FR FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 26, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23423 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-57]

Metro Car Wash; Filing of Petition for Review Under 42 U.S.C. 7194

July 29, 1980.

Take notice that Metro Car Wash on June 10, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 12, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23424 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-113]

Mid Louisiana Gas Co.; Proposed Change in FERC Gas Tariff

July 28, 1980.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on June 22, 1980, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Substitute Thirty-Sixth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to restate its base tariff rates to include the currently effective cost of gas. The proposed tariff sheet reflects the same total rate of 235.97¢ per Mcf that is currently in effect for Rate Schedules G-1, SG-1, and I-1.

Mid Louisiana states that its present base tariff rates will have been effective for thirty-six (36) months on July 15, 1980. By its order issued July 9, 1980, at Docket No. RP80-113, the Commission required Mid Louisiana to restate its Base Tariff Rates to include the current cost of gas and to support such restatement with a cost and revenue study justifying the restated rates and meeting the requirements of Section 154.38(d)(4)(vi)(*a*) of the Commission's Regulations. Mid Louisiana states that the cost and revenue study, which is a part of the filing, justified the rates currently in effect.

Copies of this filing have been served on interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23425 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3176]

New Hampshire Water Resources Board; Application for Preliminary Permit

July 28, 1980.

Take notice that the New Hampshire Water Resources Board (Applicant) filed on June 26, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for the proposed Project No. 3176 to be known as the Murphy Dam Project located on the existing State of New Hampshire-owned Murphy Dam on the Connecticut River, near the Town of Pittsburg in Coos County, New Hampshire. Correspondence with the Applicant should be addressed to: Mr. George M. McGee, Sr., New Hampshire Water Resources Board, 37 Pleasant Street, Concord, New Hampshire 03301.

Purpose of Project—Energy from Project No. 3176 would be sold to the Public Service Company of New Hampshire.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on the sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be approximately $400,000.

Project Description—Project No. 3176 would consist of: (1) the existing earth embankment dam 2,100 feet long and 100 feet high; (2) an existing 300-foot long, concrete spillway discharging through a rock channel into the river; (3) Lake Francis, having an area of 2,020 acres and a storage capacity of 96,000 acre-feet at normal maximum surface elevation of 1,385 feet; (4) an existing 13-foot diameter steel-lined concrete

conduit that withdraws water from the reservoir through a gate house; (5) an 8-foot diameter penstock approximately 300 feet long; (6) a 30- by 40-foot powerhouse; (7) a 450-foot long tailrace; (8) a turbine/generator system with an installed capacity of 2,200 kW; and (9) required electrical equipment for connection to existing transmission lines. The Applicant estimates annual generation would average 12,850,000 kWh.

Purposes of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the one filed by the Public Service Company of New Hampshire on December 4, 1979, Project No. 3006, under 18 CFR 4.33 (*as amended*, 44 FR 61328, October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 5, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23426 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-479]

Panhandle Eastern Pipe Line Co.; Trunkline Gas Co.; Amendment to Application To Amend

July 28, 1980.

Take notice that on July 9, 1980, Panhandle Eastern Pipe Line Company (Panhandle), 3444 Broadway, Kansas City, Missouri 64111, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-479 pursuant to section 7(c) of the Natural Gas Act an amendment to their joint application to amend filed June 19, 1980, in said docket, so as to authorize the use of two additional points of redelivery for the gas transported for Libbey-Owens-Ford (LOF), all as more fully set forth in the amendment, which is on file with the Commission and open to public inspection.

Applicants state that on June 19, 1980, they filed a joint application to amend the order of December 16, 1977, as amended September 13, 1979. Applicants propose to amend the application to amend so as to request authorization for the use of two additional points of redelivery for the gas transported for LOF. It is stated that the proposed new points of redelivery are existing points of interconnection between the facilities of Trunkline and Transcontinental Gas Pipe Line Corporation (Transco) and are located near Ragley, Louisiana, and Katy, Texas. Applicants claim that the new points of delivery would give Trunkline greater flexibility in redelivering gas to Transco for the account of LOF and are necessary to implement the amendment of July 3, 1980, to the currently effective transportation contract among Applicants and LOF.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons having heretofore filed need not do so again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23427 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-429]

Regis Gas Systems, Inc.; Application

July 28, 1980.

Take notice that on June 25, 1980,[1] Regis Gas Systems Inc. (Applicant), 1616 West Loop South, Houston, Texas 77027, filed in Docket No. CP80-429 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas resale and delivery facilities together with the natural gas service rendered by means of such facilities to Trunkline Gas Company (Trunkline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an order issued August 3, 1973, in Docket No. CP-73-240, Applicant was authorized to sell gas to Trunkline which was produced and purchased at the Terrell Point Field, Goliad County, Texas. Applicant states it delivered the gas to Trunkline at a point on Trunkline's pipeline transmission system by means of the Terrell Point System connecting wells in the field. Applicant herein proposes to abandon the Terrell Point System and to discontinue the sale and delivery, rendered by Applicant pursuant to an Applicant-Trunkline contract dated December 1, 1958, insofar as such service pertains to gas reserves presently dedicated to Applicant and connected to the Terrell Point System.

Applicant avers that it presently purchases gas in the Terrell Point Field

[1] The application was initially tendered for filing on June 25, 1980, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until July 7, 1980, thus the filing was not completed until the latter date.

from HNG Oil Company (HNG), which has proposed to take over the sale and distribution of gas from Terrell Point to Trunkline. Applicant states that it wishes to disengage from involvement in handling the HNG Terrell Point Field production because gas volumes have dropped to less than 250 Mcf per day and it can no longer economically operate the field. Moreover, Applicant states that is has suffered monetary loss on the resale and delivery of the natural gas and that a contract between HNG and Trunkline would keep the gas on the interstate market while eliminating Applicant as an unnecessary middleman.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23429 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-82]

San Ann Service, Inc.; Notice of Filing of Petition for Review Under 42 U.S.C. 7194

July 29, 1980.

Take notice that San Ann Service, Inc. on July 17, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 12, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23430 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Special Counsel for Compliance

Marathon Oil Co.; Proposed Remedial Order

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Marathon Oil Company and opportunity for objection.

Pursuant to 10 CFR 205.192(c) the Office of Special Counsel for Compliance of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives notice that a Proposed Remedial Order to Marathon Oil Company (Marathon) was issued on July 23, 1980 to H. D. Hoopman, Chief Executive Officer, Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840.

By this Proposed Remedial Order, the Office of Special Counsel alleges that Marathon has violated the provisions of Part 150 of the Cost of Living Council's Phase IV Price Regulations (38 FR 21592, August 9, 1973), and the Mandatory Petroleum Price Allocation Regulations (39 FR 744, January 2, 1974) for the period August 1973 through October 1978. As set forth in the findings of fact and conclusions of law of the Proposed Remedial Order, Marathon allegedly reported excessive increased product costs by assigning values to natural gas liquids and natural gas liquid products transferred between its affiliates and treating these transfers for reporting purposes as though they were acquired from unaffiliated entities in arms-length transactions. Marathon also allegedly reported increased shrinkage costs attributable to the production of natural gas liquids and natural gas liquid products in excess of those permitted under a proper application of the regulations. These improper practices resulted in a reporting of excessive increased costs in an amount of not less than $11,712,172.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained by written request from: Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room 5B-180, 1000 Independence Avenue, SW., Washington, D.C. 20585. Attention: George W. Young, Jr.

In accordance with the provisions of 10 CFR 205.193 any aggrieved person may file a Notice of Objection to the Proposed Remedial Order on or before August 20, 1980. Such Notice shall be filed with: Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Room 8114, Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained in person from: Office of Freedom of Information, Reading Room, Forrestal Building, Room 5B-180, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C. July 25, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-23436 filed 8-4-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59030; FRL 1561-1]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under Section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to issue a notice of receipt of any such application for publication in the Federal Register. This notice announces receipt of applications for exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny these applications by August 29, 1980. Persons should submit written comments on or before August 20, 1980.

ADDRESS: Written comments to: Documents Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: David Dull, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, DC 20460, 202-426-2601.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the Federal Register a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the Federal Register.

EPA has proposed Premanufacture Notification Requirement and Review Procedures published in the Federal Register of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) Federal Register notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before August 20, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-59030]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 29, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

TM 80-32

Close of Review Period. August 29, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Monosubstituted dialkyl aniline.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Use. Photographic products.

Production Estimates:

First year—20 lb/yr.
Second year—25 lb/yr.
Third year—30 lb/yr.

Physical/Chemical Properties:

Solubility:
Water—Insoluble.
Ethanol—<10%.
Acetone—>50%.
Methylene chloride—>50%.
Appearance: Coarse magenta powder.
Minimum purity: 58%.
Reactions: Stable at ambient conditions.

Toxicity Data. Ames mutagenicity tests (*Salmonella typhimurium*)—Non-mutagenic.

Occupational Exposure

Activity/site	Potential route(s)	Number[1]	Maximum duration of exposure
Manufacturing:			
Wilmington, DE	Inhalation	2	16 hr/da; 18 da/yr.
	Dermal	2	16 hr/da; 18 da/yr.
Towanda, PA	Inhalation	8	24 hr/da; 1 da/yr.
	Dermal	8	24 hr/da; 1 da.yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. The submitter claims that release to the environment of the PMN substance will be minimal and incidental. Disposal will be by incineration.

TM 80-33

Close of Review Period. August 29, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Disubstituted indole.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Use. Photographic products.

Production Estimates:

First year—16 lb/yr.
Second year—20 lb/yr.
Third year—24 lb/yr.

Physical/Chemical Properties:

Solubility:
Water—<0.10%.
Ethanol—<3%.
Acetone—>50%
Methylene chloride—>50%.
Appearance: Fine pink/orange powder.
Minimum purity: 97%.
Reactions: Stable at ambient conditions.

Toxicity Data. Ames mutagenicity tests (*Salmonella typhimurium*)—Non-mutagenic.

Occupational Exposure

Activity/site	Potential route(s)	Number[1]	Maximum duration of exposure
Manufacturing:			
Wilmington, DE	Inhalation	2	16 hr/da; 6 da/yr.
	Dermal	2	16 hr/da; 6 da/yr.
Towanda, PA	Inhalation	8	24 hr/da; 1 da/yr.
	Dermal	8	24 hr/da; 1 da/yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. The submitter claims that release to the environment of the PMN substance will be minimal and incidental. Disposal will be by incineration.

[FR Doc. 80-23491 Filed 8-4-80; 8:45 am]
BILLING CODE 6560-01-M

[Public Docket No. ECAO-CD-79-1; FRL 1560-3]

Air Quality Criteria for Particulate Matter and Sulfur Oxides: Availability of Corrections and Contemplated Revisions to External Review Draft No. 1

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a package of materials including corrections for the April, 1980, External Review Draft No. 1 of a revised Air Quality Criteria Document for Particulate Matter and Sulfur Oxides and, also, substantive changes being considered for inclusion in a second external review draft of that document.

TO OBTAIN COPIES: Address all written requests for copies to the Project Officer for PM/SO_x, Environmental Criteria and Assessment Office, MD—52, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. Telephone requests can be made by calling Area code (919) 541-3746.

Persons who earlier requested copies of the April, 1980, External Review Draft No. 1 are being sent copies of the corrections and contemplated changes.

SUPPLEMENTARY INFORMATION: As noted in the Federal Register of April 11, 1980 (45 FR 24913), External Review Draft No. 1 of Air Quality Criteria for Particulate Matter and Sulfur Oxides ("the first external review draft") has been made available for public comment. EPA is also soliciting comments on the first draft by the Clean Air Scientific Advisory Committee (CASAC) of the EPA Science Advisory Board. Recently, as noticed in the Federal Register of June 23, 1980 (45 FR 42023) the date for receipt of written public comments on the April draft was extended from July 3 to July 31, 1980. This notice announces availability of a package of materials including corrigenda (corrections) to the first external review draft, and other changes in substance and organization that the Environmental Criteria and Assessment Office is contemplating adopting in a second external review draft.

Included in the package are materials reflecting major revisions in Chapters 1, 3, and 14 which are being considered for inclusion in a second external review draft, based on comments and other information obtained since the finalization and release of the first external review draft. The corrigenda mainly discuss: (1) errors in reference citations and (2) editorial changes intended to clarify textual meaning or errors in technical content. Complete reference lists are provided for Chapters 2, 3, 6, 9 and 13, including corrected citations. There are no materials relating to Chapters 4 or 8.

These materials are being circulated at this time in order to facilitate an informed and focused public discussion of EPA's criteria revision efforts. EPA expects that additional changes, and modifications to these contemplated changes, may need to be made in response to public comments on the first external review draft received by July 31, 1980, and advice obtained from CASAC. An opportunity for public comment on any changes actually incorporated in a second external review draft will be provided when that second draft is made available to the public and CASAC.

Dated: July 30, 1980.

Stephen J. Gage,

Assistant Administrator, Office of Research and Development, Environmental Protection Agency.

[FR Doc. 80-23492 Filed 8-4-80; 8:45 am]
BILLING CODE 6560-01-M

[OPTS-51102; FRL 1561-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of four PMN's and provides a summary of each.

DATE: Written comments by September 13, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: David Dull, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-426-2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substance compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations,

however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manfacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before September 13, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51102]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 29, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-166

Close of Review Period. October 13, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed Confidential. Generic Name Provided: Carbocyanine dye.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Photo products.

Production Estimates:

First year—1,500 g.
Second year—3,000 g.
Third year—4,500 g.

Physical/Chemical Properties:

Melting point—240°C with decompositions.
Minimum purity—98%.
Appearance—Orange crystalline solid.
Reactions—Stable to ambient conditions.
Decolorized by base.

Toxicity Data:

Acute oral test (rats)—Low toxicity.
Approximate lethal dose (ALD) (rats)—11,000 mg/kg.
Primary skin irritation and sensitization tests (guinea pigs)—Non-irritant; non-sensitizer.

Occupational Exposure

Activity/site	Potential route(s)	Number [1]	Maximum duration of exposure
Manufacturing: Rochester, N.Y.	Dermal	2	16 hr/da; 15 da/yr.
	Inhalation	2	16 hr/da; 15 da/yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. E. I. du Pont de Nemours claims that release to the environment of the PMN substance will be minimal and incidental. Disposal will be by incineration.

PMN 80-167

Close of Review Period. October 13, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Arylhydrazide.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Intermediate.

Production Estimates:

First year—3,000 g.
Second year—6,000 g.
Third year—8,800 g.

Physical/Chemical Properties:

Melting point—141°-142°C.
Minimum purity—99%.
Appearance—White crystalline solid.
Reactions—Stable at ambient conditions.
Undergoes normal reactions of hydrazides and secondary amines.

Toxicity Data. No data were submitted.

Occupational Exposure

Activity/site	Potential route(s)	Number [1]	Maximum duration of exposure
Manufacturing: Rochester, N.Y.	Dermal	2	16 hr/da; 15 da/yr.
	Inhalation	2	16 hr/da; 15 da/yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. E. I. du Pont de Nemours claims that release to the environment of the PMN substance will be minimal and incidental. Disposal will be by incineration.

PMN 80-168

Close of Review Period. October 13, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Disubtituted pyrazoloquinazolone.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Intermediate.

Production Estimates:

First year—2,400 g.
Second year—4,800 g.
Third year—7,000 g.

Physical/Chemical Properties:

Melting point—243°–244°C.
Minimum purity—99%.
Appearance—White crystalline solid.
Reactions—Stable to ambient conditions.

Toxicity Data. No data were submitted.

Occupational Exposure

Activity/site	Potential route(s)	Number [1]	Maximum duration of exposure
Manufacturing: Rochester, N.Y.	Dermal	2	16 hr/da; 15 da/yr.
	Inhalation	2	16 hr/da; 15 da/yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. E. I. du Pont de Nemours claims that release to the environment of the PMN substance will be minimal and incidental. Disposal will be by incineration.

PMN 80–169

Close of Review Period. October 13, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Disubtituted pyrazoloquinazolone carboxaldehyde.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Intermediate.

Production Estimates:

First year—1,900 g.
Second year—3,800 g.
Third year—5,600 g.

Physical/Chemical Properties:

Melting point—Above 300°C.
Minimum purity—99%.
Appearance—White crystalline solid.
Reactions—Stable to ambient conditions.
Undergoes normal reactions to aldehydes.

Toxicity Data. No data were submitted.

Occupational Exposure

Activity/site	Potential route(s)	Number [1]	Maximum duration of exposure
Manufacturing: Rochester, N.Y.	Dermal	2	16 hr/da; 15 da/yr.
	Inhalation	2	16 hr/da; 15 da/yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. E. I. du Pont de Nemours claims that release to the environment of the PMN substance will be minimal and incidental. Disposal will be by incineration.

[FR Doc. 80-23490 Filed 8-4-80; 8:45 am]
BILLING CODE 6560-01-M

[OPTS-51101; FRL 1561-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by September 13, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: David Dull, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substances is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the gneric use(s), and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before September 13, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51101]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 29, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-163

Close of Review Period. October 13, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Monosubstituted dialkyl aniline.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Photographic products.

Production Estimates:

First year—20 lb/yr.
Second year—25 lb/yr.
Third year—30 lb/yr.

Physical/Chemical Properties:

Solubility:
Water—Insoluble.
Ethanol—<10%.
Acetone—>50%.
Methylene chloride—>50%.
Appearance: Coarse magenta powder.
Minimum purity: 58%.
Reactions: Stable at ambient conditions.

Toxicity Data. Ames mutagenicity tests (*Salmonella typhimurium*)—Non-mutagenic.

Occupational Exposure

Activity/site	Potential route(s)	Number[1]	Maximum duration of exposure
Manufacturing:			
Wilmington, DE	Inhalation	2	16 hr/da; 18 da/yr.
	Dermal	2	16 hr/da; 18 da/yr.
Towanda, PA	Inhalation	8	24 hr/da; 1 da/yr.
	Dermal	8	24 hr/da; 1 da/yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. The submitter claims that release to the environment of the PMN substance will be minimal and incidental. Disposal will be by incineration.

PMN 80-164

Close of Review Period. October 13, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidental. Generic name provided: Disubstituted indole.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Photographic products.

Production Estimates:

First year—16 lb/yr.
Second year—20 lb/yr.
Third year—24 lb/yr.

Physical/Chemical Properties:

Solubility:
Water—<0.10%.
Ethanol—<3%.
Acetone—>50%.
Methylene chloride—>50%.
Appearance: Fine pink/orange powder.
Minimum purity: 97%.
Reactions: Stable at ambient conditions.

Toxicity Data. Ames mutagenicity tests (*Salmonella typhimurium*)—Non-mutagenic.

Occupational Exposure

Activity/site	Potential route(s)	Number[1]	Maximum duration of exposure
Manufacturing:			
Wilmington, DE	Inhalation	2	16 hr/da; 6 da/yr.
	Dermal	2	16 hr/da; 6 da/yr.
Towanda, PA	Inhalation	8	24 hr/da; 1 da/yr.
	Dermal	8	24 hr/da; 1 da/yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. The submitter claims that release to the environment of the PMN substance will be minimal and incidental. Disposal will be by incineration.

[FR Doc. 80-23489 Filed 8-4-80; 8:45 am]
BILLING CODE 6560-01-M

[OPP-66072; FRL 1561-5]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: List of firms who have requested voluntary cancellation of registration of their pesticide products as provided for in Section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-8540.

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

EPA Reg. No.	Product name	Registrant	Date Reg.
279-1267	Niagara Perthane Malathion 5-4 Dust Code 1396.	FMC Corp. 2000 Market St. Phila., PA 19103.	Apr. 7, 1958.
279-2038	Perthane 4.0 E.C	do	May 15, 1963.
279-2168	Niagara Perthane 10 Thiodan 4 Dust.	do	Feb. 4, 1965.
279-2211	Niagara Perthane 10 Dust	do	May 17, 1965.

The Agency has agreed that such cancellation shall be effective September 4, 1980 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66072]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973; 89 Stat. 751, 7 U.S.C. 136))

Dated: July 30, 1980.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-23487 Filed 8-4-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP 00100A; FRL 1561-4]

Information-Gathering Hearings on Pesticide Use in Arizona; Availability of Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce that the Hearing Panel Report on pesticide use in Arizona is available to the public.

FOR FURTHER INFORMATION CONTACT: Walter Waldrop (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-426-2510; or Clyde B. Eller, Director, Enformcement Division (E-3-2), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, 415-556-0102.

SUPPLEMENTARY INFORMATION: On September 6-8, 1979, in Phoenix, Arizona, the Environmental Protection Agency held pulic hearings to gather information on the use of agricultural pesticides in Arizona and potential adverse health effects to people residing adjacent to or near agricultural lands. The Hearing Panel Report summarizes the observations and recommendations of the Hearing Panel and the Agency's conclusions and recommendations with respect to the basic issues that participants were asked to focus on. Copies of this report may be obtained from either of the two contact people given above.

Dated: July 24, 1980.

Steven D. Jellinek,

Assistant Administrator Office of Pesticides and Toxic Substances.

Dated: July 29, 1980.

Paul De Falco,

Regional Administrator, EPA Region IX.

[FR Doc. 80-23488 Filed 8-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1560-2]

Intent to Prepare a Draft Environmental Impact Statement

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Intent to prepare a draft environmental impact statement (EIS).

PURPOSE: To fulfill the requirements of Section 102(2)(C) of the National Environmental Policy Act, EPA has identified a need to prepare an EIS and therefore issues this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Sohocki, Environmental Evaluation Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80395. Telephone: (Commercial) 303-837-4031 (FTS) 8-327-4831.

Summary

1. Description of proposed action:

The EPA action would be the approval of a facilities plan and the issuance of grant monies pursuant to Section 201 of the Clean Water Act for the design and construction of wastewater treatment facilities located in the South Boulder Creek Valley of Boulder County, Colorado. South Boulder Creek Valley is in the same planning area as Boulder, Colorado.

2. Background:

In March 1977, the Boulder County Board of Health requested that the City of Boulder explore various methods of providing sewage service to the South Boulder Creek Valley. The Health Department had identified a potential health hazard caused by malfunctioning sewage systems after completing a testing program. A preliminary wastewater facilities plan was initiated in 1977 for South Boulder Creek Valley. However, after several meetings between the City, the Department of Health, the consultants and concerned citizens, it was generally felt that the problems and possible solutions needed further analysis. At this point, EPA made the decision to prepare an environmental impact statement (EIS) in conjunction with the facilities plan. As a

part of the EIS process a water quality survey and water supply inspection is presently underway to better determine the scope of the problem.

3. Public and Private Participation in the EIS Process:

Full participation by interested Federal, State and local agencies as well as other interested private organizations and parties is invited. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process.

4. Scoping:

The EPA Region VIII will be holding meetings to discuss the alternatives and the scope of the draft EIS. For additional information, contact the person indicated above. Public notice will be given prior to all subsequent meetings.

5. Timing:

EPA estimates the draft EIS will be available for public review and comment around January 1981.

6. Requests for Copies of Draft EIS:

All interested parties are encouraged to submit their name and address to the person indicated above for inclusion on the distribution list for the draft EIS and related public notices.

Thomas Sheckells,

Acting Director, Office of Environmental Review (A-104).

July 29, 1980.

[FR Doc. 80-23492 Filed 8-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1559-1]

National Drinking Water Advisory Council; Request for Nomination of Members

The Environmental Protection Agency (EPA) invites all interested persons to nominate qualified individuals to serve as members of the National Drinking Water Advisory Council. This Advisory Council was established to provide advice, consultation and recommendations to the Agency on the activities, functions and policies of the implementation of the Safe Drinking Water Act, as amended, which became effective December 16, 1974. The Charter for this Advisory Committee is reproduced below.

Any interested person or organization may nominate qualified persons for membership. Nominees should be identified by name, occupation, or position, address, and telephone number. Nominations should include a resume of the nominee's background, experience and qualifications.

This request for nominations does not imply any commitment by the Agency as to the procedure to be followed in making selections.

Persons selected for membership will receive per diem compensation for travel and nominal daily compensation while attending meetings.

Nominations should be submitted to the Executive Secretary, National Drinking Water Advisory Council, Office of Drinking Water (WH-550), Environmental Protection Agency, Washington, D.C., 20460, no later than September 4, 1980. The Agency will not formally acknowledge or respond to nominations.

Dated: July 28, 1980.

Marian Mlay,

Acting Deputy Assistant Administrator for Drinking Water.

National Drinking Water Advisory Council

1. *Purpose.* This Charter is reissued for the National Drinking Water Advisory Council in accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. (App. I) 9(c).

2. *Authority.* The Council was created on December 16, 1974, under the Safe Drinking Water Act of 1974, P.L. 93-523, 42 U.S.C. 300j-5 and renewed December 23, 1976.

3. *Objective and Scope of Activity.* The Council advises, consults with, and makes recommendations on a continuing basis to the Administrator, through the Assistant Administrator for Water and Waste Management, on matters relating to activities, functions, and policies of the Agency under the Safe Drinking Water Act.

4. *Functions.* The Council provides practical and independent advice to the Agency on matters and policies relating to drinking water quality and hygiene, and maintains an awareness of developing issues and problems in the drinking water area. It reviews and advises the Administrator on regulations and guidelines that are required by the Safe Drinking Water Act; makes recommendations concerning necessary special studies and research; recommends policies with respect to the promulgation of drinking water standards; and assists in identifying emerging environmental or health problems related to potentially hazardous constituents in drinking water; proposes actions to encourage cooperation and communication between the Agency and other governmental agencies, interested groups, the general public, and technical associations and organizations on drinking water quality.

5. *Composition and Meetings.* The Council consists of fifteen members including a Chairman, appointed by the Administrator after consultation with the Secretary, Department of Health, Education, and Welfare. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Except as provided in section 1446 of the Safe Drinking Water Act, each member of the Council will hold office for a term of three years and will be eligible for reappointment. The Council is authorized to form subcommittees from time to time to consider specific matters and report back to the full Council. Such subcommittees shall consist of the members of the Council. Meetings will be held as necessary and convened by the Assistant Administrator for Water and Waste Management. A full-time salaried officer or employee of EPA will be designated as the Executive Secretary. Each meeting will be conducted in accordance with an agenda approved in advance of the meeting by the designated Agency official. The Executive Secretary will be present at all meetings and is authorized to adjourn any meeting whenever he determines it to be in the public interest. The estimated annual operating cost of the Council is approximately $125,000, which includes 1 man-year of staff support. The Office of Water and Waste Management will provide the necessary staff and support for the Council.

6. *Duration.* As provided in the Safe Drinking Water Act, the two-year duration and renewal mechanism of section 14(a) of the Federal Advisory Committee Act shall not apply to the National Drinking Water Advisory Council. However, the Charter shall be reviewed and updated upon the expiration of each successive two-year period following date of enactment of the Act establishing this Council.

7. *Supersession.* The former National Drinking Water Advisory Council charter signed on December 23, 1976 is hereby superseded.

Approval Date: November 24, 1978.

[FR Doc. 80-23313 Filed 8-4-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 80-398; FCC 80-417]

Inquiry Relating to Preparations for 1983 Region 2 Administrative Radio Conference of the International Telecommunication Union for Planning of Broadcasting-Satellite Service in 12 GHz Band and Associated Uplinks

AGENCY: Federal Communications Commission

ACTION: Notice of inquiry.

SUMMARY: The Commission has adopted an NOI in preparation for a scheduled Regional Administrative Radio Conference for planning of the Broadcasting-Satellite Service. This conference will provide a plan and associated agreement for the orderly introduction of satellite broadcasting in the Americas. This NOI will solicit public views concerning the U.S. requirements and objectives for this service.

DATES: Comments must be received on or before October 10, 1980, and Reply Comments must be received on or before November 7, 1980.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION: Contact Edward R. Jacobs/OST, 202-653-8102.

SUPPLEMENTARY INFORMATION:

Adopted: July 17, 1980.

Released: July 25, 1980.

By the Commission:

In the matter of: An inquiry relating to preparations for the 1983 Region 2 Administrative Radio Conference of the International Telecommunication Union for the Planning of the Broadcasting-Satellite Service in the 12 GHz Band and the Associated Uplinks.

Purpose

1. The purpose of this proceeding is to request public comment concerning commission preparations for a scheduled 1983 Region 2 Administrative Radio Conference for the planning of the 12 GHz broadcasting-satellite service.[1] The results of this proceeding will serve as the basis for Commission coordination with the National Telecommunications and Information Administration (NTIA) and the Department of State in the formulation of United States proposals to that conference.

Background

2. The International Telecommunication Union, on January 10, 1977, convened a World Administrative Radio Conference for the planning of the Broadcasting-Satellite Service (WARC-BS) in the band 11.7-12.2 GHz (11.7-12.5 GHz in Region 1). United States preparations for that Conference included the issuance of two *Notices of Inquiry* and a *Report and Order* by the Commission.[2] That Conference (WARC-BS) adopted a detailed orbit/frequency allotment plan for the broadcasting-satellite service (BSS) for Regions 1 and 3 as well as interim provisions to govern the Region 2 use of the 11.7-12.2 GHz band pending further considerations at a future Region 2 conference. This Region 2 conference is now scheduled for June 1983. These interim provisions are shown in Appendix 1 [2a] to this *Notice*.

3. During the U.S. preparations for the 1979 World Administrative Radio Conference (WARC 79), the results of WARC-BS were closely examined; in particular, the Region 2 interim provisions which provided for a segmentation of the geostationary satellite orbit arc between the broadcasting-satellite service and the fixed-satellite service in the 11.7-12.2 GHz band were studied. It was concluded that such a sharing arrangement was not in the best interest of either the United States or Region 2 in general; nor was it an efficient manner in which to utilize the orbit/spectrum resource in this part of the spectrum. It was determined that the basic requirements for broadcasting-satellite and fixed-satellite services for Region 2 would best be satisfied by separating these two radio services in frequency, thereby eliminating the necessity for orbital arc segmentation.[3]

4. The U.S. proposals to WARC 79, therefore, recommended allocating the band 11.7-12.2 GHz to the fixed-satellite service (space-to-Earth) and the 12.2-12.7 GHz band to the broadcasting-satellite, fixed, and broadcasting services. In this manner, the two space services would not be required to share a common frequency band. While the specific U.S. proposals for the 12 GHz band were not entirely accepted by WARC 79, the main thrust and objective were accepted. WARC 79 adopted and allocations scheme wherein the fixed-satellite service is the primary space service in the band 11.7-12.1 GHz, with the broadcasting-satellite service permitted to operate under certain restrictions;[4] and the broadcasting-satellite service is the primary space service in the band 12.3-12.7 GHz with the fixed-satellite service permitted to operate under similar restrictions.[5] The provisions adopted at WARC 79 would also eliminate the concept of orbital arc segmentation between these two space services. The band 12.1-12.3 GHz would be shared between the two services until the 1983 Region 2 conference, at which time this sub-band would be specifically divided between the two services with the lower portion going to the fixed-satellite service and the upper portion to the broadcasting-satellite service. The allocations and associated footnotes for the band 11.7-12.2 GHz are contained in Appendix 2 to this *Notice*.

5. As a result of WARC-79, the scope of the 1983 Region 2 conference has also been expanded to include consideration of the feeder links for the 12 GHz broadcasting-satellites. As a result of the frequency separation of the fixed-satellite and broadcasting-satellite services at 12 GHz, the United States felt it necessary to provide an allocation for feeder links for the broadcasting-satellite service separate from those used for regular fixed-satellite uplinks, e.g., the 14.0-14.5 GHz band. A shared use of this band for feeder links to each of the space services would have generally led to the same types of sharing difficulties and inefficient orbit/spectrum utilization that we were trying to avoid in the 12 GHz downlinks. With this in mind, the U.S. proposed to WARC 79 that the band 17.1-17.6 GHz be allocated to the fixed-satellite service (Earth-to-space), which would then be available for the BSS feeder links.[6] WARC-79 eventually agreed upon an allocation at 17.3-18.1 GHz for the fixed-satellite service (Earth-to-space) with its use restricted to only BSS feeder links. (See Appendix 7). Additionally, in Resolution CH of WARC 79 it was resolved that a part of the 17.3-18.1 GHz

[1] Region 2 encompasses the Western Hemisphere, including Greenland and Hawaii.

[2] Docket No. 20468, *Notice of Inquiry*, Adopted April 30, 1975, Released May 9, 1975; 52 FCC 2d 1069 (40 Fed. Reg. 20673).

Docket No. 20468, *Second Notice of Inquiry*, Adopted January 15, 1976, Released February 4, 1976; 41 Fed. Reg. 4065.

Docket No. 20468, *Report and Order*, Adopted July 15, 1976, Released August 6, 1976; 60 FCC 2d 700 (1976).

[2a] Appendices 1-8 are filed with the Office of the Federal Register as a part of the original document and may be obtained by writing to the Federal Communications Commission, Public Information Office, Washington, D.C. 20554.

[3] Docket No. 20271, *Report and Order*; Adopted December 5, 1978, Released December 28, 1978; 70 FCC 2d 1193 (44 Fed. Reg. 2683).

[4] See Final Acts of WARC-79, footnote 3787A (reproduced in Appendix 2, p. A-4, to this *Notice*).

[5] See *id* at footnote 378F (reproduced in Appendix 2, p. A-5, to this *Notice*).

[6] It should be noted that BSS feeder links must be provided in the fixed-satellite service (Earth-to-space).

band also be planned at the 1983 Region 2 conference to provide the feeder links for the GHz broadcasting-satellites. The Resolution also calls for the band to be planned to be equivalent in bandwidth to the bandwidth finally determined for the 12 GHz broadcasting-satellite allocation.

6. Additionally, WARC 79 adopted a number of resolutions and recommendations that bear upon the planned Region 2 Broadcasting-Satellite planning conference. These resolutions and recommendations are presented in Appendix 3 to this *Notice*. It should be noted that the "interim" provisions for 11.7–12.2 GHz were also imposed upon the Region 2 satellite services in the band 12.2–12.7 GHz, since this allocation was not available for Region 2 space services prior to WARC 79.[7]

7. Since WARC 79 made significant modifications to the allocations table in the 12 GHz band for Region 2, it will be necessary to reconsider the terms of reference for the 1983 Region 2 Conference.[8] Since the primary thrust of this conference was to be the detailed planning of the broadcasting-satellite service in the 11.7–12.2 GHz band, the terms of reference will need to be modified so as to reflect the new distribution of radio services in the 11.7–12.7 GHz band, and specifically the shifting of the broadcasting-satellite service from the lower to the upper end of this band. The Region 2 conference will be principally concerned with the planning of the broadcasting-satellite service and the establishment of sharing criteria between that service and the terrestrial services with which it shares a common frequency range. The specific agenda and duration for this conference will be the subject of further discussion at the May 1981 meeting of the ITU Administrative Council.

Commission Planning for the Broadcasting-Satellite Service

8. One of the present tasks of the Commission is to provide a regulatory environment that will encourage the development of a multiplicity and diversity of video services. Direct-to-the-home satellite service may have many potential benefits. It is, however, still a developing technology and as such its ultimate beneficial uses are still unknown. In the near future, the Commission will be starting to develop the policy considerations that should govern domestic direct-to-the-home satellite service. As part of our efforts to ensure that the American people gain the maximum possible benefits from this technology, it is our intent to foster, and not to stifle, the potential development of this new service at the 1983 regional conference.[9]

9. There are a number of specific issues that need to be resolved in order to have a complete set of U.S. proposals to the Region 2 conference. Since proposals to the Region 2 BSS Conference will be due in Geneva eight months in advance of the Conference, it is important to identify now the significant issues that will be addressed by the Conference, in order that a BSS plan can be developed that provides the necessary framework to meet the United States' evolving requirements. These issues are 1) Basic Service Requirements of each of the administrations of the Region; 2) Technical Specifications and Sharing Criteria that must be established in order to draw up an effective plan; and 3) Planning Principles and Procedures, which must be established to provide guidance for the establishment of the plan, and the implementation and future modifications or additions thereto. It should be noted that there is significant interplay between these categories of issues that must be considered in our preparations for this upcoming conference. It is, therefore, important that these interactions be fully explored and understood during our preparatory effort to ensure that the U.S. Delegation to the Conference will have the requisite background information to react to the inevitable evolution of events that will occur at the Conference. In order to prepare U.S. positions on the specific issues to be addressed at the Conference, we believe we should first establish our nation's basic needs and requirements for broadcasting satellites. Simply put, what final services do we contemplate broadcasting satellites will provide to the American public? We seek general comments on what purposes BSS should serve and specific comments that can tie these purposes to specific issues. For example, the issue of service areas, discussed in Paragraph 13 *infra*, is clearly linked to the final services contemplated since some service area configurations will be more efficient than others in providing particular final services.

Basic Service Requirements

10. The basic service requirements category contains in number of specific items. These include division of the band 12.1 to 12.3 GHz; type of service; service areas; and the number of channels and satellite orbital positions.

Division of the Band 12.1 to 12.3 GHz

11. One of the first items to be treated at the Region 2 BSS conference will be the division of the band 12.1–12.3 GHz between the BSS and the Fixed-Satellite Service, in accordance with Footnote 3787B of the WARC–79 Final Acts.[10] The exact dividing point point will be a function of the requirements of both services. The Commission would prefer to defer discussion on where this sub-band should be divided until the requirements of both services can be more fully explored. Preliminary public comments on this item, however, are welcome.

Type of Service

12. By ITU definition (R.R. No. 84APA and 84APB), the broadcasting-satellite service may consist of two different modes of operation—individual reception or community reception. The planning principles for Region 2 adopted at WARC-BS (see Appendix 8, number 8) and Resolution CH of WARC–79 (see Appendix 3, Res CH, resolves 5) stipulate that the Region 2 plan "shall be based on individual reception, but each administration may use the reception system which best meets its requirements, . . .". Comments are requested as to the type of service most suitable for meeting U.S. requirements. If a requirement is identified for community reception, either as the sole reception mode or in combination with individual reception, comment is solicited as to how this can best be accommodated in the planning process.

Service Areas

13. Comments are solicited with respect to recommended service areas for the United States that would appear in the Region 2 plan. Service areas that have been discussed informally include contiguous 48 state coverage (CONUS), with spot beams to areas outside of CONUS (such as Alaska, Hawaii and Puerto Rico); time zone coverage; and regional or spot beam coverage. A mixture of these has also been considered. When commenting upon recommended service areas for the U.S., if a mixture of these types of service areas is suggested for U.S. use, (e.g., time zone coverage, with a spot beam

[7] See Appendix 3, Resolution C1.

[8] See Appendix 3, Resolution CH.

[9] The Commission is aware that the U.S. implementation of the broadcasting-satellite service in the band 12.2–12.7 GHz will have a significant impact on existing terrestrial users of that band. This important fact will be taken into consideration during our preparations for the conference and in any subsequent rulemaking proceedings to implement the conference results. Nevertheless, the protection of long-term U.S. interests in the BSS areas necessitates that the U.S. prepare for the conference on the assumption that BSS will eventually be implemented within this country. Domestic decisions regarding that implementation, to the extent that foreign operations are protected in accordance with ITU regulations, will be the subject of separate proceedings.

[10] See Appendix 2, p. A–4.

available within the time zone area), comments are requested concerning the advisability of identifying these spot beams in the Region 2 plan, as opposed to identifying the entire time zone. When commenting upon the required service areas for the U.S., it should be noted that the type of service area will have operational, technical, and spectrum efficiency implications. For example, due to the time differences between the East and West Coasts, multiple video feeds may be necessary to meet operational requirements. In addition, current technological development of high power satellites and travelling wave tube amplifiers may make full-CONUS and half-CONUS coverage somewhat impractical for individual reception; although it is assumed that technical advances will be forthcoming in these areas. With regard to spectrum efficiency, it should be noted that for technical reasons the relative spacings of satellites must be increased as the coverage area (satellite antenna beamwidth) increases.

14. Comments are also requested concerning U.S. requirements regarding the shape of the service areas. The WARC-BS assumed elliptical antenna patterns for the BSS space station transmit antennas, and did not provide for any "beam shaping" beyond that. While the topic of shaped beams is more of a technical issue to be considered under sharing issues, comments are requested as to the feasibility and/or desirability of shaped beams to meet the basic service requirements of the U.S. and Region 2. Consideration should also be given as to how best to meet the requirements of international Radio Regulation No. 428A.[11]

15. The plan for Regions 1 and 3 adopted at WARC-BS generally provided for service areas that encompassed entire countries and were elliptical in shape. Exceptions to this case were the larger countries such as India, China and the Soviet Union, which specify between 12 and 35 different service areas in the plan. In a mock draft planning exercise at WARC-BS, Region 2 administrations identified service areas for their countries.[12] In this exercise, the United States identified six service areas within the continental U.S.; Canada similarly identified six service areas; Brazil identified three service areas; and Mexico and Chile each identified two service areas. The remainder of the Region 2 administrations identified only one service area, viz. their entire country. It is anticipated that at the 1983 Region 2 conference, the majority of Region 2 administrations will again opt for a single service area coverage of their country, with the exception of those noted above.

Number of Channels and Satellite Orbit Positions

16. The fourth issue to be considered under basic service requirements is the number of channels and satellite orbit positions that are necessary to meet our requirements.[13] The number of channels that would be available to the U.S. (or any other Region 2 country) is limited by the orbit and spectrum resource available, as well as the requirements of other countries in the Region.[14] The Commission is in the process of conducting analyses of the total number of channels that might be available for U.S. and Region 2 use. The results of these analyses will be made available as soon as the studies are complete and have been evaluated. Comments are solicited in this proceeding as to estimates of channel capacity available to the Region as a whole and specifically to the U.S. and the underlying bases for these estimates. Comments are also solicited as to the U.S. channel requirements.

17. Key to determining the number of channels that might be available for Region 2 use is the number of satellite orbit positions that might be available. The technical aspects of this issue will be addressed later in this *Notice.* The issue in question at the moment concerns the number of orbital positions that might be necessary in order to meet the U.S. basic requirements for a broadcasting-satellite service. For a given number of channels available for U.S. use, should the channel requirements of the United States be met by providing a small number of channels in many satellite postions or should the channels be clustered so that a larger number of channels are in a relatively few orbital positions? When addressing this question, commenters are asked to state their opinion on the trade-offs involved, including operational, technical, and spectrum efficiency aspects. It should be noted that clustering of the satellite channels and orbital positions may eliminate the necessity for "steerable" antennas in order to receive alternative programming, thereby reducing the cost of the receive equipment. If the answer is to spread the channel allotments out over the largest number of satellite positions, is there a minimum number of channels which should be provided to a given service area from a given satellite position, considering both service requirements and overall system costs? Based upon the above considerations, comments are requested on the number and location of the orbital positions or slots needed for this service in the United States. Comments are also requested on the preferred orbital spacings between systems.

Technical Specifications and Sharing Criteria

18. The United States position on a number of the technical issues will be strongly influenced by what we perceive as our basic service requirements. For example, the actual number of channels for any particular plan adopted will be dependent upon the particular technical parameters selected, that is, frequency re-use techniques, coverage areas, receive equipment characteristics, protection ratios and the like. The technical issues that were considered at WARC-BS generally fell into two categories: the first were those that were integral to the plan itself, such as satellite spacings and channel spacings; and the second group consisted of technical characteristics that were assumed for the broadcasting-satellite systems and from which the interference analyses were based in developing and evaluating the efficacy of the plan. The technical data used in establishing the provisions and associated plan at WARC-BS are contained in Annex 8 to the Final Acts of that conference. This Annex is reproduced as Appendix 4 to this *Notice.* Region 2 will be able to revisit virtually all of these technical characteristics in developing a plan for this Region. The only condition our Region will face is adherence to certain "inter-Regional sharing criteria", which were adopted at WARC-BS and are still applicable.[15] Fortunately, these inter-

[11] RR No. 428A provides that "In devising the characteristics of a space station in the broadcasting-satellite service, all technical means available shall be used to reduce, to the maximum extent practicable, the radiation over the territory of other countries unless an agreement has been previously reached with such countries."

[12] Several such analyses were performed at WARC-BS, not all of which assumed the same number and size of service areas.

[13] In the Region 1 and 3 plan, a general rule of thumb was adopted wherein each administration in Region 1 would be provided five channels, and each administration in Region 3 would receive four channels (due to the lesser bandwidth available). After this minimum requirement was satisfied, special requirements were treated on an individual basis. Countries with more than one service area were, of course, provided with more than the minimum number of channels, although having several service areas generally resulted in averaging fewer than the four or five channels per service area that "one service area" countries received.

[14] Resolution CH of WARC 79 provides that a minimum of 4 channels per Region 2 country should be provided in the plan.

[15] The inter-Regional sharing criteria were re-addressed by WARC-79, but not modified to any significant degree. See Resolutions CH, CI, and CJ in Appendix 3 to this *Notice.*

Regional criteria are in the form of power flux density limits and there is considerable flexibility available when developing a Region 2 plan so as to meet these limits.

19. The WARC-BS, in addition to addressing the technical characteristics of the broadcasting-satellite service, also considered the sharing criteria between the BSS and the other services in the band, as well as between two BSS systems. These criteria are contained in Annex 9 to the WARC-BS Final Acts and are presented here as Appendix 5 to this *Notice*. The Commission would also like to draw specific attention to the use of shaped beam technology, which was not considered at WARC-BS. This technology not only has potential for providing a better grade of service to a given area, but also has sharing implications. Comments are specfically requested in this area.

20. The Commission requests comments concerning the technical characteristics and sharing criteria that were adopted at WARC-BS as to their applicability for the 1983 Region 2 planning conference. The Commission believes that advances in broadcasting-satellite technology have been significant since the adoption of the WARC-BS technical specifications. Comments are requested as to where improvements can be made in these specifications in order to provide for a more efficient BSS plan that is responsive to U.S. and Region 2 requirements. Since the satellite orbital spacings and channel spacings both are significant in determining the number of channels available to the Region, and thus to satisfying basic service requirements, comments are specifically requested in these two areas. The Commission is also keenly interested in how varying the technical considerations for BSS systems affects the orbit/spectrum efficiency and costs of such systems. Comments are also requested on how orbit/spectrum efficiency and costs will change over time and what technical advances are likely to occur to affect spectrum efficiency and costs. Please indicate in what time frame you estimate these changes will occur.

21. Another topic for consideration is that of feeder links for the broadcasting-satellite service. This is an area for which there is little conference guidance. Comments are requested on this topic in general, and in particular on the following: a) the specific frequency range within 17.3–18.1 GHz that should be planned, b) the approximate number of feeder link sites required, c) the mobility (if any) that should be available to feeder link stations, d) the sharing criteria for the various services to which the 17.3–18.1 GHz band was allocated by WARC-79; and e) the technical characteristics of feeder links.

Planning Principles and Procedures

22. One of the more critical issues to be faced at the 1983 conference will be one of a general philosophy for the planning exercise. Resolution CH of WARC-79 calls for providing a minimum of 4 channels in the plan per Region 2 country. this is one principle to be followed, but there are certainly other "principles" to be considered and developed when formulating the Region 2 plan. For instance, a basic question is "For what period of time are we developing a specific plan to meet Region 2 requirements?" Shall we attempt to foresee all of our requirements up to the year 2000, for example, and provide for those requirements in a fixed plan to be adopted in 1983, or shall we attempt to identify some more clearly defined, intermediate requirement to be provided for in the plan, with attendant provisions for accommodating new requirements as they materialize? The WARC-BS adopted a set of planning principles for Region 2 for the space services in the band 11.7–12.2 GHz. These principles are reproduced in Appendix 8 to this *Notice*. Allocation decisions reached at WARC-79 will have a decided impact upon some of these principles, whereas some of the principles are as relevant now as they were prior to WARC-79. In this regard, comments are generally requested as to the recommended planning approach to be taken at the 1983 conference, particularly with respect to the above mentioned principles. Comments are specifically requested with regard to the time frame within which one can confidently forecast the BSS requirements that could be provided for directly in a detailed plan, and the extent to which such detailed planning should be provided.

23. In developing the Region 1 and 3 BSS plan at WARC-BS, it was acknowledged by the delegations present that some administrations may want to make modifications to their entries in the plan, or even perhaps new entries. Even with a plan, it was recognized that there was a need for certain implementing procedures in order to bring an assignment in the plan into use, and to protect assignments in the plan with respect to the implementing of terrestrial services. These aspects are addressed in Articles 4, 5, and 6 of the WARC-BS Final Acts and are included as Appendix 6 to this *Notice*. While the Commission does not, in this *Notice*, desire to treat the issue of procedures in great detail, we do believe that the procedures adopted at WARC-BS provide a good point of departure for future consideration. Comments are requested as to the adequacy of these procedures to meet U.S. requirements in the procedurs area. Specific comments on these procedures are also welcome.

Need for an Advisory Committee

24. During preparations for the 1977 WARC-BS, a Joint Industry/Government Advisory Committee was established to assist in the United States preparations for that Conference. Some of this work has already begun within the United States Study Group of the CCIR as a result of various Resolutions and Recommendations adopted at WARC-79.[16] Additional work will continue to be done in this area within the Commission. The Commission, however, also requests comments on the desirability of forming an Advisory Committee to assist in preparations for the conference. Comments are specifically requested to address the cost/benefits of such an action. If the formation of an Advisory Committee is deemed desirable or cost beneficial to the Commission, what should be the terms of reference and the composition of such a committee?

Administrative

25. Although the subject conference is not scheduled to convene until June 1983, the issues involved are complex and controversial. It is important that the Commission and the U.S. begin in earnest the formal preparations for this important conference. Accordingly, pursuant to the authority contained in Sections 4(i), 303 and 404 of the Communications Act of 1934, as amended, a *Notice of Inquiry* IS ADOPTED into the matter captioned above.

26. Interested parties may file comments on or before 10 October 1980 and reply comments on or before 7 November 1980. Although Section 1.419 of the Commission's Rules requires that an original and five copies of all statements, briefs or comments be filed in response to this *Notice*, the Commission's conference preparatory organization necessitates the filing of an original and nineteen copies. All relevant and timely comments and reply comments filed in this proceeding will be considered. The Commission may

[16] CCIR—International Radio Consultative Committee. This Committee is one of several permanent organs of the ITU and is responsible for studying technical and operational questions relating to radiocommunications.

also take into account other information before it, in addition to the specific comments and reply comments elicited by this *Notice of Inquiry.*

27. Point of contact on this matter is Edward R. Jacobs, (202) 653-8102.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-23284 Filed 8-4-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

U.S. Fire Administration, Board of Visitors for the National Fire Academy; Open Meeting—Revised

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Fire Academy.

Date of Meeting: August 12-13, 1980.

Place: U.S. Fire Administration, Basement Conference Room, 2400 M Street NW., Washington, D.C.

Time: 9:00 a.m. to 5:00 p.m.

Dated: July 30, 1980.

Joseph A. Moreland,

Deputy Administrator, United States Fire Administration.

[FR Doc. 80-23463 Filed 8-4-80; 8:45 am]

BILLING CODE 6718-04-M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 25, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos.: T-3155-5 and T-3155-6.

Filing Party: Mr. John C. Barnett, Leases and Operating Agreements Division, The Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreements Nos. T-3155-5 and T-3155-6, between the Port Authority of New York and New Jersey (Port) and Maersk Container Service Company, Inc., (Maersk) assignee of Moller Steamship Company, Inc., (Moller) modify the parties basic agreement providing for Mollers' 25-year lease of a marine terminal at Port Newark, New Jersey. The purpose of Agreement No. T-3155-5 is to provide for additional premises and additional basic rental for said premises.

The purpose of Agreement No. T-3155-6 is to add certain premises, to delete other premises, and to provide for the relocation of a fence.

Agreement No.: T-3716-1.

Filing Party: E. F. Brimo, Treasurer, Global Terminal and Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Summary: Agreement No. T-3716-1, between Global Terminal and Container Services, Inc. (Global) and Korea Shipping Corporation (KSC), modifies the basic agreement between the parties (entitled, "Container, Terminal LCL Service Agreement") under which Global furnishes the necessary equipment and labor for the performance of certain services for KSC in connection with the operation of a container freight station.

The purpose of the modification (entitled "Container, Terminal, Stevedore, and LCL Service Agreement") is to add provisions for vessel stevedoring and container terminal services, in addition to the LCL services already established by the basic agreement.

Agreements Nos.: T-3912 and T-3913.

Filing Party: Wade S Hooker, Jr., Burlingham, Underwood and Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. T-3912, between Port Authority of New York and New Jersey the (Port Authority) and Associated Container Transportation Australia) Ltd. (ACt) provides that the Port Authority will lease to ACT a building and parking area to be constructed by the Port Authority at its Port Newark facility. the leased premises will be used as an off-pier receiving and temporary refrigerated storage area for meat carried by ACT and the Australian National Line (ANL). ACT will compensate the Port Authority for the use of the facilities and premises at a rental rate of $360,000 per annum. The term of the lease is 5 years following the construction completion of the facilities in question.

Agreement No. T-3913 between Associated Container Transport (Australia) Ltd. (ACT) and International Terminal Operating Co., (ITO) provides that ACT will sublease to ITO certain premises and facilities at Port Newark which ACT has leased from the Port Authority of New York and New Jersey under terms and conditions of a master lease (FMC Agreement No. T-3912).

The purpose of the sublease is for the receipt and stripping of containers of frozen meat carried on vessels owned or operated by ACT or other vessels as specified under the terms of the sublease. The term of the sublease is coterminous with the master lease (5 years) and the annual rental is $360,000. By Order of the Federal Maritime Commission.

Dated: July 31, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-23542 Filed 8-4-80; 8:45 am]

BILLING CODE 6730-01-M

Joint Service Agreement Between Intercontinental Transport and Compagnie Generale Maritime Agreement No. 10266-4; Availability of Findings of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Agreement No. 10266, the basic agreement, is a joint service agreement between Intercontinental Transport (ICT) and Compagnie Generale Maritime (CGM) which operates in the trade between United States ports on the Gulf of Mexico and South Atlantic coast and ports in Europe (including the United Kingdom, Eire, Scandinavia, and the Baltic), excluding the Mediterranean. ICT and CGM operate under the trade name "Gulf Europe Express." Agreement No. 10266-4 amends the basic agreement requesting Commission approval to offer intermodal services.

The OEA'S major environmental concern was whether the proposed intermodal service to be made by Gulf Europe Express would significantly increase energy usage and/or affect the

quality of the air, water, noise and bilogical environment.

The OEA has determined that the Commission's final resolution of Agreement No. 10266–4 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725. Interested parties may comment on the environmental assessment or or before August 21, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-23586 Filed 8-4-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Algemene Maatschappij Voor Nijverheidskrediet N.V. and Kredietbank N.V.; Proposed Acquisition of KB Business Credit, Inc.

Algemene Maatschappij voor Nijverheidskrediet N.V., Antwerp, Belgium, and Kredietbank N.V., Brussels, Belgium, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of KB Business Credit, Inc., New York, New York.

Applicants state that the proposed subsidiary would engage in the activities of extending commercial credit and making leases of personal property in accordance with Regulation Y. Those activities would be performed from offices of Applicants' subsidiary in New York, New York, and the geographic areas to be served are New England and the states of: Alabama, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resource, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views of requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 29, 1980.

Board of Governors at the Federal Reserve System, July 30, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23571 Filed 8-4-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than August 29, 1980.

A. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Midland Capital Co., Oklahoma City, Oklahoma (mortgage banking activities; California): to engage in mortgage banking activities, through a subsidiary, Midland Mortgage Co., at an office in La Palma, California. These activities were previously commenced *de novo*, but terminated as of March 4, 1980. This application is to reopen the La Palma, California office of Midland Mortgage Co. The service area will include Orange and Los Angeles Counties in California.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corporation, Los Angeles, California (financing and credit-related insurance activities; Massachusetts): to engage through its subsidiary Security Pacific Finance Corp. of New Hampshire (formerly American Finance Corporation of New Hampshire), in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company. These activities would be conducted from an office of Security Pacific Finance Corp. of New Hampshire in Burlington, Massachusetts, serving the State of Massachusetts. Comments on this application must be received by August 19, 1980.

2. Orbanco Financial Services Corporation, Portland, Oregon (data processing activities; Oregon): to engage, through its wholly-owned subsidiary, American Data Services,

Inc., in storing and processing banking, financial, or related economic data, such as performing payroll, accounts receivable or payable, or billing services at an office in Medford, Oregon, serving the southern one-half of the State of Oregon.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 30, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23568 Filed 8-4-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Correction

This notice corrects a previous Federal Register document (FR Doc. 80-22658) appearing at page 50422 of the issue for Tuesday, July 29, 1980. The notice for Security Pacific Corporation in the left column appears incorrectly under the heading for the Federal Reserve Bank of New York. That notice is corrected to appear under the heading for the Federal Reserve Bank of San Francisco.

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to this application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 18, 1980.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (escrow activities; Colorado): to engage *de novo*, through its indirect subsidiary, Rocky Mountain Escrow, Inc., in acting as escrow agent for the purchase and sale of real property and the execution of all documents and disbursal of funds relating to loan transactions, and all other activities engaged in by an escrow company. These activities would be conducted from an office of Rocky Mountain Escrow, Inc. located in Denver, Colorado, serving the State of Colorado.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 30, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23569 Filed 8-4-80; 8:45 am]

BILLING CODE 6210-01-M

First Pennsylvania Corp.; Proposed Retention of Pennamco Insurance Service, Inc.

First Pennsylvania Corporation, Philadelphia, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain Pennamco Insurance Service, Inc., Philadelphia, Pennsylvania.

Applicant states that the proposed subsidiary engages in the activity of providing insurance for First Pennsylvania's banking subsidiary and selling life, accident and health insurance and property and casualty insurance directly related to extensions of credit by that banking subsidiary. These activities would be performed from offices of Applicant's subsidiary in Philadelphia, Pennsylvania, and the geographic areas to be served are southeastern Pennsylvania, Delaware, Maryland, New Jersey and the Virgin Islands. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank in Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 20, 1980.

Board of Governors of the Federal Reserve System, July 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23570 Filed 8-4-80; 8:45 am]

BILLING CODE 6210-01-M

Geneva Capital Corp.; Formation of Bank Holding Company

Geneva, Capital Corporation, Lake Geneva, Wisconsin, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens National Bank of Lake Geneva, Lake Geneva, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 30, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23567 Filed 8-4-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 29, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before August 25, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance for the new recordkeeping requirement contained in § 73.37(b)(5) of 10 CFR Part 73, Physical Protection of Plants and Materials. On June 15, 1979, the NRC amended 10 CFR Part 73 of its regulations to provide immediately effective requirements for the physical protection of irradiated reactor (spent) fuel in transit. Concurrently, the Commission issued a guidance document (NUREG-0561) to assist licensees in carrying out these requirements. Both the amendments and the guidance document were published in the interest of the public health and safety without the benefit of public comment. At the time of publication, however, the public was invited to submit its views and comments. After reviewing the comments received, and after taking into account the experience gained during the several months the amendments have been effective, a number of changes have been suggested in the amendments and NUREG-0561. The original version of NUREG-0561 contained a chapter describing a written log to be kept by shipment escorts during the course of a spent fuel shipment. The purpose of this log was to provide a durable record of the circumstances surrounding a given shipment, to support inspection and enforcement functions of the NRC, and form the basis for any further regulatory actions regarding spent fuel shipments, in general. The NRC has determined that this guidance should be given a firm regulatory basis by specifically requiring the maintenance of a written log. This requirement is comparable to the recordkeeping requirements of § 73.70, which cover shipments of other types of special nuclear material. The NRC estimates that the recordkeeping requirement contained in § 73.37(b)(5) will affect 10 licensees annually and that the burden for each licensee will average 9 hours and 33 minutes for recordkeeping in transit per spent fuel shipment.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-23494 Filed 8-4-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control

Cooperative Agreements for Nutrition Surveillance Systems; Program Announcement; Availability of Funds

In the issue of Wednesday, July 23, 1980 in FR Doc. 80-22065 appearing on page 49165, the agency heading for this document reads "Department of Health and Human Resources." This is incorrect and should be changed to read as it appears above.

BILLING CODE 1505-01-M

Love Canal Epidemiology Work Group; Open Meeting

On August 11, 1980, an open meeting will be held of the Love Canal Epidemiology Work Group to discuss epidemiologic study protocols on health effects of chemical contamination of the Love Canal area. Clinicians, health and environmental scientists, and public health officials who are actively involved in the study, prevention, and control of human health consequences of toxic environmental contamination have been invited to participate in the work group. The meeting is open to the public, limited only by space available.

The meeting is scheduled to convene at 8:30 a.m., in Classroom 1, Building 2, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

All inquiries should be sent to: Renate Kimbrough, M.D., Research Medical Officer, Toxicology Branch, Bureau of Laboratories, Center for Disease Control, Atlanta, Georgia 30333; telephones: FTS: 236-4176, Commercial: 404/452-4176.

Dated: July 31, 1980.

William C. Watson, Jr.,

Acting Director, Center for Disease Control.

[FR Doc. 80-23677 Filed 8-4-80; 8:45 am]

BILLING CODE 4110-86-M

Food and Drug Administration

[Docket No. 76N-0002]

Diethylstilbestrol (DES); Food Use of Cattle Illegally Fed DES

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its Position Paper regarding the food use of cattle illegally fed DES. The Position Paper sets forth the conditions under which the agency will allow adulterated food derived from illegally fed animals to be marketed.

DATE: The Position Paper is effective on August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mervin H. Shumate, Enforcement Policy Staff (HFC-20), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1745.

SUPPLEMENTARY INFORMATION: FDA has learned that DES continued to be included in the feed of cattle on and after November 1, 1979, the date on which the agency's ban on the use of DES in cattle and sheep became effective. The agency has concluded that the public interest is not well served by the discard of a large number of food-producing animals and has prepared the following Position Paper, which sets forth the conditions under which the agency will allow adulterated food derived from the illegally fed animals to be marketed.

FDA Position Regarding the Food Use of Cattle Illegally Fed DES

On June 29, 1979, the Commissioner of Food and Drugs signed a final order

withdrawing the approved new animal drug applications (NADA's) for the use of diethylstilbestrol (DES) in cattle and sheep (see 44 FR 54852; September 21, 1979). That final order set up a phased market withdrawal system for DES. FDA has learned that the use of DES in cattle persisted even after prescribed cut-off dates. This activity violates the Federal Food, Drug, and Cosmetic Act and cannot be condoned. However, the public interest is not well served by the discard of a large number of food-producing animals that can be reconditioned. After due consideration, the agency determined that the adulterated food derived from illegally implanted animals could be allowed to be marketed only after explicit conditions were followed. Those conditions were set forth in a Position Paper that was published in the Federal Register of April 22, 1980 (45 FR 27014).

In this document the agency announces the conditions that must be met prior to authorizing the marketing of meat from animals illegally fed DES. The procedures, propositions, assumptions, and precautions adopted in FDA's April 22, 1980 Position Paper regarding the conditions to be met for reconditioning animals illegally implanted with DES are incorporated by reference to apply to the conditions provided in this document.

The fact that FDA, in exercising its enforcement discretion, would allow adulterated food derived from illegally dosed animals to be marketed does not excuse the violative conduct that has occurred. The agency intends to use its full range of enforcement options where appropriate.

DES in Feed

Cattle that were illegally fed DES on or after November 1, 1979, may be made acceptable for human consumption if special precautions are taken. it should be stressed that this conclusion is based on the premise that there will be no additional use of DES and consumption of DES-contaminated tissues. The special precautions that must be taken are as follows:

1. The cattle must no longer receive feed containing DES.

2. If liver and kidneys from these animals are to be used, the animals must not be slaughtered for at least 122 days after cessation of DES feeding.

3. If the liver and kidneys are to be discarded, the animals must not be slaughtered for at least 73 days after the cessation of DES feeding.

All of the same assumptions and procedures used in determining the conditions described for DES-implanted animals and published at 45 FR 27014 apply here to DES-fed animals as well.

1. *Tissue residue concentrations at time of removal from DES feed.* The values for the agency's estimation of the concentration of DES residues present in edible tissues of cattle illegally fed DES are derived from a single study involving one steer (Ref. 1). Three other studies on this subject available to FDA are inappropriate for purposes of this estimation because (1) the radioactivity-labeled DES was not administered until after the animals had received large amounts of unlabeled DES and therefore the observed radioactivity could not be relied upon to represent all of the DES residues in the tissues; (2) an insufficient amount of DES was administered. Data from the one study used indicate that at 24 hours after dosing one animal with labeled material the liver contained 49.9 parts per billion (ppb) equivalents, and muscle 0.195 ppb equivalents. This calculation assumes that all the residue is in the form of unmetabolized DES.

2. *Estimation of required detection limits.* The required detection limits are the same as those discussed at 45 FR 27014 for DES implanted cattle:

Liver—1.2 parts per trillion (ppt).

Muscle—0.6 ppt.

3. *Estimation of the time required for the expected DES residue levels to deplete to 1.2 ppt (liver) and 0.6 ppt (muscle).* The one study upon which the agency relies to estimate the concentration of DES residues present in edible tissues of cattle illegally fed DES suffers from two deficiencies. The first deficiency is that only one steer was treated and assayed. This precludes any assessment of animal-to-animal variability in the data. Accordingly, to compensate for the lack of information on animal-to-animal variability, the agency has added one 7-day half-life to the calculation of a withdrawal period. The second deficiency in the one study is that the one steer was fed DES for only 3 days, a duration of treatment that could not have allowed tissue residues to reach the equilibrium levels expected in animals fed the drug for weeks or months under the conditions of use previously approved. To compensate for the lack of information on this point, another 7-day half-life was added to the calculation of the withdrawal period.

Using the 7-day half-life for residues employed for explanted cattle in the April 22, 1980 Position Paper and using all the same assumptions employed in section I,3 of that Position Paper, the estimated withdrawal times for residues of DES in DES-fed cattle to deplete to acceptable levels discussed in paragraph 2 above are:

Liver—122 days.

Muscle—73 days.

These numbers include the use of the two additional 7-day half-lives discussed above as well as the inclusion of 1 additional day in consideration of the fact that the one steer examined was sacrificed following a 24-hour withdrawal period.

Considering relative consumption and initial residue concentration in kidney, the data from the one reliable reference indicate that the time required for kidney to be acceptable for human consumption is approximately 119 days. However, in order to reduce confusion, FDA is requiring the same withdrawal period for kidney that is required for liver.

Reference

1. Information submitted to FDA in Docket No. 76N-0002, Vol. II, Tab. 54 and identified more specifically as: Tables 1-7 in attachment to January 19, 1977 letter to the Animal Health Institute from Robert F. Sieck, Analytical Development Corp.

Effective date. This Position Paper is effective August 5, 1980.

Dated: July 25, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-23285 Filed 8-4-80; 8:45 am]

BILLING CODE 4110-03-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice revises a notice appearing in the July 25, 1980 Federal Register (45 FR 49682) announcing a forthcoming public advisory committee meeting of the Food and Drug Administration to be held September 15 and 16, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, rockville, MD. The agenda for the Fertility and Maternal Health Drugs Advisory Committee meeting is revised as follows:

AGENDA—OPEN COMMITTEE DISCUSSION: The Committee will duscuss the safety of Bendectin. Any individual or group wishing to present information relative to this matter should contact A. T. Gregoire, Executive Secretary (HFD-130), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3542.

Sometime prior to the meeting, the agency will publish a notice in the Federal Register announcing the availability of questions and data prepared by the food and Drug Administration for consideration by the committee.

The previously scheduled agenda items entitled "benefit/risk of high dose oral contraceptives and postmenopausal Estradiol Pellets (NDA 18-135)" will be rescheduled for a subsequent meeting.

Dated: July 30, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-23397 Filed 8-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0256; DESI 11160]

Dextromethorphan Hydrobromide With Potassium Guaiacol Sulfonate, Ammonium Chloride, Chloroform, and Antimony Potassium Tartrate; Withdrawal of Approval of Pertinent Parts of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of pertinent parts of the new drug application for Thorexin Cough Medicine containing dextromethorphan hydrobromide, potassium guaiacol sulfonate, ammonium cholride, chloroform, and antimony potassium tartrate. A reformulated product containing only dextromethorphan hydrobromide has been approved as safe and effective.

EFFECTIVE DATE: August 5, 1980.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 11160 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing (Docket No. FDC-D-522; now Docket No. 80N-0256) published in the Federal Register of February 2, 1973 (38 FR 3210), the Food and Drug Administration (FDA) proposed to issue an order withdrawing approval of the new drug application for Thorexin Cough Medicine, an OTC drug product containing dextromethorphan hydrobromide, potassium guaiacol sulfonate, ammonium chloride, chloroform, and antimony potassium tartrate. The proposed order was based on an unfavorable ratio of benefit to risk.

On March 2, 1973, The Purdue Frederick Company submitted a supplemental application to reformulate the product by deleting all active components except dextromethorphan hydrobromide and to relabel the product. At the same time the company requested a hearing. This supplemental application was amended on November 8, 1977 to delete the color additive FD&C Red No. 2 from the formulation. On April 18, 1980, FDA approved this supplemental and amended application as safe and effective. On April 29, 1980 Purdue Frederick withdrew its request for a hearing. Therefore, approval of pertinent parts of the followingl new drug application not in accord with the approved application as supplemented and amended is now being withdrawn:

NDA 11-160; Thorexin Cough Medicine, a liquid containing dextromethorphan hydrobromide, potassium guaiacol sulfonate, ammonium chloride, chloroform, and antimony potassium tartrate; The Purdue Frederick Company, 50 Washington Street, Norwalk, CT 06856.

Any drug product that is identical, related, or similar to the drug product named above and that is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) finds that on the basis of new evidence before him with respect to the drug product, evaluated together with the evidence available to him when the product was approved, the drug is not shown to be safe under the conditions of use for which the application was approved.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA 11-160 and all amendments and supplements applying thereto not in accord with the approved application as supplemented and amended is withdrawn effective August 5, 1980.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: July 24, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 80-23398 Filed 8-4-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Medicare Program; Supplemental Health Insurance Panel—Evaluation of State Regulatory Programs for Medigap Policies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of request for recommendations of individuals to serve on the Supplemental Health Insurance Panel.

SUMMARY: This notice invites interested parties to recommend State Commissioners or Superintendents of Insurance to serve on a Panel that will evaluate State regulatory programs for Medicare supplemental health insurance policies (Medigap policies).

In recent years, investigations by the Congress, the Federal Trade Commission, and various other individuals and agencies have uncovered significant abuses in connection with health insurance policies intended to supplement Medicare. In order to address those abuses, Congress, under Pub. L. 96-265, established a voluntary certification program for Medigap policies. (See section 1882 of the Social Security Act as amended (42 U.S.C. 1395ss).) The law provides that Medigap policies meet minimum standards and that the Secretary certify policies that meet them.

However, the Secretary's certification program will apply only in States that do not have in effect, by July 1, 1982, their own programs for regulating Medigap policies in accordance with standards and requirements specified in the statute (section 1882(i) of the Act).

The statute provides for a Supplemental Health Insurance Panel that will determine whether or not State regulatory programs for Medigap policies meet the requirements of the law. The Panel will consist of the Secretary, who will serve as chairperson, and four State Commissioners or Superintendents of Insurance, who are to be appointed by the President (section 1882(b) of the Act).

We are publishing this notice to assure that the President will have the beneift of the thinking of individuals and groups concerned with the Medigap issue when he appoints Panel members. Therefore, we are inviting interested parties, such as consumer groups and the insurance industry, to recommend State Commissioners and Superintendents of Insurance to serve on the Panel. We are particularly interested in biographical information

about the skills and expertise those individuals would bring to that position. We will be submitting recommendations on eight individuals, a primary and an alternate candidate for each appointment.

DATE: To assure consideration, recommendations should be received by: September 4, 1980. We need recommendations by this date because the law mandates that the Panel members be appointed by December 31, 1980. We need to proceed now with steps to establish the Panel.

ADDRESSES: Address comments in writing to:

Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17072, Baltimore, Maryland 21235.

If you prefer, you may deliver your recommendations to Room 390–G Hubert Humphery Building, 200 Independence Ave., SW., Washington, D.C., or to Room 789, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland.

In responding to this notice, please refer to BPO–12–N.

FOR FURTHER INFORMATION CONTACT: Robert A. Silva, Director, Medigap Operations Staff, Bureau of Program Operations, Health Care Financing Administration, 301–594–7410.

(Sec. 1102 and 1882 of the Social Security Act (42 U.S.C. 1302, 1395ss))

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare-Hosptial Insurance Program; No. 13.774 Medicare-Supplementary Medicare Insurance Program)

Dated: July 31, 1980

Howard Newman,

Administrator, Health Care Financing Administration.

[FR Doc. 80-23687 Filed 8-4-80; 8:45 am]

BILLING CODE 4110-35-M

Public Health Service

Health Services Administration

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1980:

Name: *EMS Training Work Group of the Interagency Committee on Emergency Medical Services*

Date and Time: September 11, 1980, 9:00 a.m.

Place: Room 10–56, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. Open for entire meeting

Purpose: The Work Group will review the EMS training needs for physicians, nurses, EMTs, and communications personnel. This includes review, evaluation and development of curriculum. The Work Group will be responsible for making recommendations on certification, recertification and revocation processes. It also evaluates staffing requirements. The Work Group will report its recommendations and findings to the Interagency Committee on Emergency Medical Services.

Agenda: Review of assigned issues: (1) What uniform standards of Emergency Medical Services training are recommended and/or accepted by the Interagency Committee on EMS? (2) What types of training in Emergency Medical Services need emphasis on future curriculum development? What type of training need curriculum revision? and (3) What are current manpower needs for Emergency Medical Services personnel? How can these needs best be determined? Review of draft of existing standards for "Report of Interagency Committee on Emergency Medical Services."

The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of meeting, or other relevant information should write to or contact Mr. Dick Salamander, Division of Emergency Medical Services, Bureau of Medical Services, Health Services Administration, Suite 11–64D, 6525 Belcrest Road, Hyattsville, Maryland 20782, Telephone (301) 436–6284.

Name: *EMS Communications Work Group of the Interagency Committee on Emergency Medical Services*

Date and Time: September 11, 1980, 9:30 a.m.

Place: Room 5334, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20024. Open for entire meeting

Purpose: The Work Group will advise and make recommendations to the Interagency Committee on Emergency Medical Services on all the technical aspects of planning, developing and operating EMS communications systems.

Agenda: The items include: (1) Review draft of existing communication standards for Report of IAC; (2) Suggest new standards for EMS communication equipment; (3) Prioritization of Work Group tasks; (4) Memo of understanding on full-channel capability for EMS system and other technical guidelines for joint-funded projects; (5) Report on work of "911" task force; and (6) Report on work of Radio Telephone Switch Station (RTSS) task force.

The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of meeting, or other relevant information should write to or contact Mr. John Wood, Division of Emergency Medical Services, Bureau of Medical Services, Health Services Administration, Suite 11–64D, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–6284.

Parking for Visitors: Contact Captain Glass's Office at (202) 472–5440 for parking arrangements in advance.

Name: EMS Transportation Work Group of the Interagency Committee on Emergency Medical Services

Date and Time: September 11, 1980, 1:00 p.m.

Place: Room 10432, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20024. Open for entire meeting

Purpose: The Work Group will advise and make recommendations to the Interagency Committee on Emergency Medical Services on all technical aspects of designating and operating primary and secondary transportation systems. This includes vehicle specifications, placement strategy, and equipment requirements.

Agenda: The items include: (1) Review draft of existing transportation standards for Report of IAC; (2) Evaluation of implementation of ground ambulance registration in accordance with State criteria and guidelines; (3) Guidelines for mutual aid agreements between Federal entities and local EMS systems (when the Federal agency is responsible for population included as airports, military bases, Indian reservations, VA hospitals, and national parks); (4) The Federal role in facilitating intrastate and interstate transportation of EMS patients including secondary transport; (5) Guidelines to evaluate differing requirements in rural and wilderness areas; (6) The Federal role in establishing air ambulance standards; and (7) Federal standards or guidelines covering alternate transportation in special areas for delivery of EMS care, e.g., snowmobile, motorcycle, and water craft.

The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of meeting, or other relevant information should write to or contact Mr. Tom Schlob, Division of Emergency Medical Services, Bureau of Medical Services, Health Services Administration, Suite 11–64D, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–6284.

Name: Interagency Committee on Emergency Medical Services

Date and Time: September 12, 1980, 9:00 a.m.

Place: Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open for entire meeting

Purpose: The Committee coordinates and provides for the communication and exchange of information among all Federal programs and activities relating to emergency medical services, and carries out its responsibilities under section 1208(c).

The Committee will develop and publish: (1) A coordinated, comprehensive Federal emergency medical services funding and resource-sharing plan, designed to promote the coordination between, and enhance the effectiveness of Federal, State, and local funding and operation of programs and agencies relating to emergency medical services and related activities (including communication and transportation systems of public safety agencies). (2) A description of sources of Federal support for the purchase of vehicles and communications equipment and for training activities related to emergency

medical services. (3) Recommended uniform standards of quality, health, and safety with respect to all equipment (including communications and transportation equipment) and training related to emergency medical services.

Agenda: The items include: (1) Review of rational for the National EMS Program Strategy; (2) Report on Grant Awards FY 1980; (3) Reports by IAC Work Group Chairperson, Communications, Training and Transportation; (4) The rational for Trauma Centers and the progress in designation; (5) Trauma data base; and (6) Draft report on standards for EMS.

The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of meeting, or other relevant information should write to or contact Mr. Lee Shuck, Division of Emergency Medical Services, Bureau of Medical Services, Health Services Administration, Suite 11-64D, 6525 Belcrest Road, Hyattsville, Maryland 20782, Telephone (301) 436-6284. Public seating is limited to forty (40). Please contact at least 72 hours before the meeting.

Agenda items are subject to change as priorities dictate.

Dated: July 30, 1980.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 80-23495 Filed 8-4-80; 8:45 am]

BILLING CODE 4110-84-M

Social Security Administration

Agreement Between the U.S. and the Federal Republic of Germany (F.R.G.) on the Matter of Social Security; Availability of Text of Agreement

The Commissioner of Social Security gives notice that the text of an agreement coordinating the social security systems of the United States (U.S.) and the Federal Republic of Germany (F.R.G.) is available to interested parties. This agreement, authorized under section 233 of the Social Security Act, became effective on December 1, 1979. It provides that a person, who has a minimum amount of coverage under the U.S. or the F.R.G. social security system (6 quarters of U.S. coverage or 18 months of F.R.G. coverage), but not sufficient coverage to be entitled to a benefit from that country, may combine (totalize) the periods of coverage earned in both countries for the purpose of determining entitlement to and the amount of a benefit from that country. The benefit paid by that country will be proportional to the amount of coverage completed under its social security system. In addition, the agreement eliminates dual coverage and dual taxation of the same work. For example, a U.S. citizen who is sent to work temporarily in the F.R.G. for a U.S. employer will be covered by and pay contributions to the U.S. system and will be excluded from coverage and taxation under the F.R.G. system.

The agreement has been published in booklet form as part of the *Treaties and Other International Acts Series* (TIAS No. 9542). This publication contains (1) the principal agreement signed on January 7, 1976; (2) the final protocol signed on January 7, 1976 which contains, for the most part, unilateral commitments or reservations to the agreement; and (3) the administrative agreement signed on June 21, 1978 for the implementation of the principal agreement. Copies may be purchased for $3.25 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Persons who have questions about the agreement or wish more information about its provisions may write to the Social Security Administration, Office of Policy, Office of International Policy, IPPS, 6401 Security Blvd., Baltimore, Maryland 21235.

Dated: July 28, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80-23448 Filed 8-4-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Intensive Wilderness Inventory; Responses to Protests to Final Decisions on Units in Southeast Oregon.

Final decisions on the accelerated intensive wilderness inventory of 30 units in southeast Oregon were announced in the Federal Register on March 27, 1980, pages 20166-20167. A notice was published in the Federal Register on May 21, 1980, page 34075, identifying units or parts of units for which the decisions became effective on April 29, 1980, and units or parts of units for which the decisions were formally protested to the Oregon State Office. This notice identifies our response to those protests.

A. The March 27, 1980, decisions for the following areas were to identify them as wilderness study areas. After reviewing information in the letters of protest and re-evaluating earlier inventory findings, we continue to believe the areas are wilderness in character. I, therefore, sustain the March 27, 1980, decisions to identify them as wilderness study areas.

Unit No.	Acreage
2-81L	67,430
2-82H	97,395
Total	164,825

B. The March 27, 1980, decisions for the following areas were to eliminate them from further wilderness review. After reviewing information in the letters of protest and re-evaluating earlier inventory findings, we continue to believe they do not possess wilderness characterisitcs. I, therefore, sustain the March 27, 1980, decisions to eliminate them from further wilderness review.

Unit No.	Acreage
1-77	20,040
1-77	9,920
1-105	30,000
2-1	62,865
2-11	11,300
2-23E	5,910
2-26	15,045
2-74E	23,140
2-74N	10,470
3-154	6,660
Total	195,390

C. The March 27, 1980, decision for the 3,240 acres in Unit 5-14 was to eliminate them from further review. After reviewing the information in the protest letter and re-evaluating earlier inventory findings, we have concluded that 3,114 acres in the unit do meet minimum criteria for identification of a wilderness study area in Unit 5-14.

Persons who submitted protests which we did not substain have been notified that they may take an appeal to the Department of the Interior, Board of Land Appeals.

Persons who adversely affected by the change in the decision for a portion of Unit 5-14 and who believe it is not correct may appeal the decision to the Department of the Interior, Board of Land Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E. If an appeal is taken, the Notice of Appeal must be filed in the Oregon State Office, BLM (not with the Board) so the record can be sent to the board. The Notice of Intent must be filed on or before September 4, 1980. Copies of all appeal documents must also be sent to the Associate Solicitor, Division of Energy and Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the procedures set forth in the regulations

are not followed, an appeal is subject to dismissal.

Herbert L. Haglund,

Acting State Director.

[FR Doc. 80-22922 Filed 8-4-80; 8:45 am]

BILLING CODE 4310-84-M

California; Withdrawal Review Scheduling and Opportunity for Comment

July 28, 1980.

Section 204(1) of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2754; 43 U.S.C. 1714) established a 15-year period beginning October 21, 1976, within which the Secretary of the Interior must review certain withdrawals of the public lands existing on the date date of passage of the Act. The Bureau of Land Management is responsible for the administration of the withdrawal review program.

Significant benefits to be achieved from the withdrawal review program are: (1) More effective land use planning through the elimination of obsolete withdrawals and (2) increased availability of public lands and their various resource values for multiple use management.

An inventory of all withdrawals of the public lands in California, as required by Section 204(1) of FLPMA, has been completed and the various holding and benefiting agencies are being requested to check their property holding records and verify the inventory data. The Bureau of Land Management's procedures provide that in the third phase of the program the authorized officer will review the justification and recommended termination date for each existing withdrawal to ensure that continuation provides for maximum public and private use of the withdrawn lands consistent with the purpose of the withdrawal and that all withdrawals lacking justification are recommended for either total or partial revocation.

The authorized officer will prepare reports for consideration by the Secretary of the Interior, who will determine whether, and for how long, the continuation of each existing withdrawal is justified. The determinations of the Secretary will be published in the Federal Register.

The Bureau of Land Management is preparing a schedule for the review of approximately 1,300 withdrawals, identified by the inventory, by September 30, 1991. Proposed review schedules must be submitted to the various holding agencies by October 1, 1980, with a final schedule for the review of all withdrawals in California to be completed by January 15, 1981.

The following priorities will be followed in establishing the schedule of reviews:

1. First Priority—withdrawals which segregate lands from use or disposal under the Mining Law of 1872, as amended, and/or leasing under the Mineral Leasing Act of 1920, as amended, and are *known* to affect minerals of more than nominal value;
2. Second Priority—withdrawals which segregate lands from use or disposal under the Mining Law of 1872, as amended, and/or leasing under the Mineral Leasing Act of 1920, as amended, and are *suspected* to affect minerals of more than nominal value;
3. Third Priority—all other withdrawals segregating lands from mineral exploration and development; and
4. Fourth Priority—all other withdrawals, emphasizing those where resources values are susceptible to degradation or lack of protection.

For a period of 30 days from the date of publication of this notice, all persons wishing to submit comments or suggestions in connection with the proposed scheduling of reviews may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Information pertaining to the withdrawals under review, including type, location, holding agency, segregative effect, and legal description, is available for public inspection in Room E-2807 at the address below.

All communications in connection with the proposed review schedule should be addressed to the undersigned, Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Eleanor K. Wilkinson,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-23467 Filed 8-4-80; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 80-48]

Luke Air Force Range

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the draft environmental impact statement (DEIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the BLM has prepared a DEIS for the proposed withdrawal of land for the Luke Air Force Range.

DATE: Comments will be accepted until October 3, 1980.

ADDRESS: Comments should be sent to: State Director (920), Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

FOR FURTHER INFORMATION CONTACT: Art Tower, Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602) 261-4127.

SUPPLEMENTARY INFORMATION: The BLM has prepared a DEIS on a proposal by the U.S. Air Force for a 20-year renewal of a 502,792-acre withdrawal on the Luke Air Force Range, Arizona.

The DEIS analyzes the environmental impacts of the proposal (including social and economic impacts), in addition to various alternatives.

A limited number of the draft statements are available upon request at the following offices:

Arizona State Office, 2400 Valley Bank Center, Phoenix, Arizona 85073;
Phoenix District Office, 2929 W. Clarendon Ave., Phoenix, Arizona 85017;
Yuma District Office, 2450 Fourth Avenue, P.O. Box 5680, Yuma, Arizona 85364;
Luke Air Force Base, Environmental Officer, Luke Air Force Base, Arizona 85309;
Gila Bend Air Force Base, Environmental Officer, Gila Bend, Arizona 85337;
Marine Corps Air Station, Yuma, Environmental Officer, Yuma, Arizona 85364.

Dated: July 30, 1980.

Tom Allen,

Associate State Director.

[FR Doc 80-23555 Filed 8-4-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Arco Oil & Gas Co.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3242, Block A-466, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 21, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80-23473 Filed 8-4-80; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before July 25, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 20, 1980.

Carol Shull,

Acting Keeper of the National Register.

ILLINOIS

Christian County

Taylorville, *Bee Castle,* IL 29

DeKalb County

DeKalb, *Haish Memorial Library,* 309 Oak St.

Greene County

Greene, *Hodges House,* 532 N. Main St.

Kane County

Elgin, *First Universalist Church,* 55 Villa St.
Elgin vicinity, *Memorial Washington Reformed Presbyterian Church,* W of Elgin on W. Highland Avenue Rd.

Lake County

Fort Sheridan, *Fort Sheridan Historic District,* Off IL 22

Livingston County

Dwight, *Oughton, John R., House,* 101 W. South St.

Logan County

Lincoln, *Lincoln Public Library,* 725 E. 3rd St.

Macoupin County

Hagaman, *Robinson, J. L., General Store,* Off IL 108

McLean County

Heyworth vicinity, *Noble-Wieting Site*

Sangamon County

Springfield, *Chirst Episcopal Church, 611 E. Jackson St.*

Tazewell County

Pekin, *Pekin Federal Building,* 334 Elizabeth St.

Warren County

Monmouth, *Martin, Sarah, House,* 310 E. Broadway

Whiteside County

Sterling, *Kirk, Col. Edward N., House, 1005 E. 3rd St.*

KENTUCKY

Fayette County

Lexington, *Clark, John, House (Auvergne)* Tates Creek Pike

Floyd County

Wheelwright, *Wheelwright Commercial District,* Main St.

Jefferson County

Harrods Creek vicinity, *Barbour-DeRidder House (Jefferson County Multiple Resource Area)* Rose-Island Rd. (This is an amendment to the Jefferson County Multiple Resource Area nomination published on July 15, 1980, in the Federal Register.)

Woodford County

Troy vicinity, *Paul Family Complex,* W of Troy on Paul's Mill Rd.

NEVADA

Humboldt County

Winnemucca, *Nixon Opera House,* Winnemucca Blvd. and Melarkey St.

NEW JERSEY

Cape May County

Cape May Courthouse vicinity, *New Asbury Methodist Episcopal Meetinghouse,* Shore Rd.

Essex County

Montclair, *Presby Memorial Iris Gardens Horticultural Center* 474 Upper Mountain Ave.

Hunterdon County

Flemington, *Flemington Historic District,* Roughly bounded by NJ 12, NJ 31, N. Main, Shields, and Hopewell Aves.

Monmouth County

Allenhurst, *Allenhurst Railroad Station,* Main St.

NEW MEXICO

Socorro County

Magdalena, *MacDonald Merchandise Building,* U.S. 60

OHIO

Athens County

Athens, *Mount Zion Baptist Church,* Congress and Carpenter Sts.

Butler County

Oxford vicinity, *Lane's Mill Historic Buildings,* S of Oxford at 3884 Wallace Rd.

Columbiana County

Lisbon vicinity, *Hostetter Inn,* NW of Lisbon

Crawford County

Bucyrus, *Bucyrus Mausoleum,* Southern Ave.
Bucyrus, *Toledo and Ohio Central Depot,* 700 E. Rensselaer St.
Bucyrus vicinity, *Smith Road Bridge,* NW of Bucyrus
Galion, *Brownella Cottage and Grace Episcopal Church and Rectory,* S. Union and Walnut Sts.

Holmes County

Berlin, *Pomerene House,* U.S. 62
Berlin vicinity, *Boyd School,* NW of Berlin on Fryburg-Fredericksburg-Boyd Rd.

Lawrence County

Ironton, *Erlich, F. W., House,* 1908 S. 6th St.

Montgomery County

Dayton, *Bossler, Marcus, House,* 136 S. Dutoit St.
Dayton, *Dayton Fire Station No. 14,* 1422 N. Main St.
West Carrollton, *Schuter Carpenter Shop and House,* 3244 W. Alexandersville-Bellbrook Rd.

Muskingum County

Zanesville, *Adena Court Apartments,* 41 S. 4th St.
Zanesville, *McClelland, Harry S., House,* 908 Laurel Ave.

Paulding County

Antwerp, *Antwerp Norfolk and Western Depot,* W. Water St.

Ross County

Chillicothe vicinity, *Highbank Farm,* SE of Chillicothe on OH 35

Shelby County

Sidney, *Sidney Courthouse Square Historic District,* Roughly bounded by North and South Sts., West and Miami Aves.

Summit County

Akron, *Akron Rural Cemetery Buildings*, 150 Glendale Ave.
Akron, *Akron YMCA Building*, 80 W. Center St.

Washington County

Little Hocking vicinity, *Curtis, Walter, House*, S of Little Hocking

OKLAHOMA

Grady County

Tuttle vicinity, *Silver City Cemetery*, N of Tuttle

RHODE ISLAND

Kent County

Coventry, *Waterman, William, House*, RT 102

Newport County

Tiverton, *Barker, Benjamin, House*, 1229 Main Rd.

Providence County

North Scituate vicinity, *Battey-Barden House*, SW of North Scituate on Plainfield Pike
North Scituate vicinity, *Cooke, Amos, House*, SW of North Scituate on Chopmist Hill Rd.

Washington County

Exeter vicinity, *Fisherville Historic and Archeological District*, SW of Exter on William Reynolds Rd.
Exeter vicinity, *Hallville Historic and Archeological District*, SW of Exeter on Hallville Rd.
Exeter vicinity, *Parris Brook Historic and Archeological District*, Mount Tom Rd.
Exeter vicinity, *Queen's Fort*, NE of Exeter on Stony Lane
Exeter vicinity, *Sodom Mill Historic and Archeological District*, Sodom Trail
Saunderstown vicinity, *YMCA Site*, NW of Saunderstown on Gilbert Stuart Rd.
Wyoming vicinity, *Hillsdale Historic and Archeological District*, E of Wyoming on Hillsdale Rd.

SOUTH CAROLINA

McCormick County

McCormick vicinity, *Eden Hall*, 6 mi. NE of McCormick off U.S. 221 and SR 24

TEXAS

Cameron County

Brownsville, *Cameron County Courthouse*, 1150 E. Madison St.

Harris County

Houston, *Paul, Allen, House*, 2201 Fannin St.

Travis County

Austin vicinity, *Aynesworth-Wright House*, N of Austin at 11693 Research Blvd.

Victoria County

Victoria, *Tonkawa Bank Site*, Riverside Park

VERMONT

Addison County

Middlebury, *Middlebury Village Historic District*, U.S. 7, VT 125 and VT 30 (boundary increase)

Bennington County

North Bennington, *North Bennington Historic District*, VT 67 and VT 67A

WISCONSIN

Walworth County

Lyons, *Lyons Hotel*, 6070 N. Rail St.

[FR Doc. 80-23132 Filed 8-4-80; 8:45 am]
BILLING CODE 4310-03-M

Office of the Secretary

[Secretary's Order 3039, Amdt. 1]

Trust Territory of the Pacific Islands

Notice is hereby given that the Secretary of the Interior has issued Amendment No. 1 to Order No 3039, dated April 25, 1979, recognizing governmental entities under locally-ratified constitutions in the Trust Territory of the Pacific Islands. Section 6 of Order 3039 provided for the continuation of the social security system of the Trust Territory until the trusteeship agreement is terminated. It had the effect of perpetuating trust territory social security laws without change although the new governmental entities otherwise had the authority to amend or otherwise revise Trust Territory laws as they apply within their respective jurisdictions. Amendment No. 1 will permit the social security laws to be amended by concurring legislation enacted by each of the three political entities and approved by the High Commissioner. It was requested by the three governments and the Trust Territory social security administration.

Additional information regarding the Order may be obtained from Mr. George R. Milner, Territorial and International Affairs, U.S. Department of the Interior, Washington, D.C., 20240, telephone 202-343-6816.

Dated: July 25, 1980.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[Order No. 3039, Amdt. No. 1]

Recognition of Governmental Entities Under Locally Ratified Constitution in the Trust Territory of the Pacific Islands

Sec. 1. Purpose. The purpose of this amendment is to permit the governmental entities established, or to be established, under Order No. 3039 to amend Trust Territory laws relating to the social security system in the territory. The social security system has been established and financed on a territory-wide basis and Section 6 of Order No. 3039 perpetuated that system until the termination of the Trusteeship Agreement. As originally written, Section 6 precludes amendment of Trust Territory social security laws. Experience since Order No. 3039 became effective demonstrates the need to make periodic revisions to the Trust Territory social security laws. Representatives of the Governments of the Marshall Islands, the Federated States of Micronesia, and Palau have agreed that such amendments should be made on the basis of joint action by the three legislative bodies and the approval of the High Commissioner. This amendment revises the language of Section 6 so as to permit changes in Trust Territory social security laws under such circumstances.

Sec. 2. Social Security. Section 6 of Secretarial Order No. 3039 is hereby amended to read as follows:

"Section 6. *Social Security.* Until termination of the trusteeship agreement, the social security laws of the trust territory shall remain in full force and effect, unless amended by concurring legislation enacted by all three political entities and approved by the High Commissioner."

Sec. 3. Effective Date. Amendment No. 1 to Order No. 3039 shall take effect upon issuance.

Dated: July 17, 1980.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80-23471 Filed 8-4-80; 8:45 am]
BILLING CODE 4310-93-M

INTERNATIONAL CONVENTION ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, that a meeting of the International Convention Advisory Commission will be held on Wednesday, August 20, 1980, 9:00 a.m., at the Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006.

The Commission will consider domestic procedures for implementation of the Convention, applications for international trade in species protected by the Convention, possible amendments to the Convention appendices, and other business pertaining to the third meeting of the Conference of the Parties in New Delhi.

For further information contact Dr. William Y. Brown, Executive Secretary, International Convention Advisory Commission, Washington, D.C. 20240, telephone 202/343-7407. Opportunity will be given for oral or written presentations provided that

appointments are made with Dr. Brown by 5:00 p.m., August 18, 1980.

Dated: July 31, 1980.

Jane H. Yarn,

Chairman, International Convention Advisory Commission.

[FR Doc. 80-23398 Filed 8-4-80; 8:45 am]

BILLING CODE 4310-68-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperatives; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: July 31, 1980.

The following Notices were filed in accordance with section 10526(a)[5] of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: The Arkansas Rice Growers Cooperative Assn. d.b.a., Riceland Foods.

Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 927, Stuttgart, AR 72160.

Where are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 2120 South Park Avenue, Stuttgart, AR 72160.

Person to Whom Inquiries and Correspondence Should be Addressed (Name and Mailing Address): Charles A. Gunnell, P.O. Box 927, Stuttgart, AR 72160.

(2) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Hathco Lines, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): 1300 Market Street, Wilmington, DE 19801.

Where are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Hwy. 45 North, Selmer, TN 38375.

Person to Whom Inquiries and Correspondence should be Addressed (Name and Mailing Address): Ewing Adkins, Rt. 3 Box 620, Selmer, TN 38375.

(3) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Specialized Leasing, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): 1127 N. 18th, Omaha, NE 68102.

Where are Records of your Motor Transportation Maintained (Street No., City, State and Zip Code): 1127 N. 18th, Omaha, NE 68102.

Person to Whom Inquiries and Correspondence should be Address (Name and Mailing Address): Avalon Arbogast, 1127 N. 18th, Omaha, NE 68102.

(4) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Tri-Coastal Farm Lines, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): 15721 Elwood Drive, Houston, TX 77040.

Where are Records of your Motor Transportation Maintained (Street No., City, State and Zip Code): 15721 Elwood Drive, Houston, TX 77040.

Person to Whom Inquiries and Correspondence should be Addressed (Name and Mailing Address): O. T. Wine, 15721 Elwood Drive, Houston, TX 77040.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23441 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 190]

Assignment of Hearings

July 30, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 43038 (Sub-484F), Commercial Carriers, Inc., now being assigned for hearing on October 6, 1980 at Albuquerque, NM location of hearing room will be designated later.

MC 133315 (Sub-5F), Asbury System, now being assigned for hearing on September 29, 1980 at Los Angeles, CA location of hearing room will be designated later.

MC 145516 (Sub-4F), T. G. Stegall Trucking Co., Inc., now being assigned for hearing on September 4, 1980 at the offices of Interstate Commerce Commission at Washington, D.C.

MC 135419 (Sub-1F), Container Carrier Corporation, now being assigned for Prehearing Conference at the Offices of the Interstate Commerce Commission, at Washington, D.C.,

MC 97310 (Sub-32F), Sharron Motor Lines, Inc., now assigned for continued hearing on August 19, 1980 (4 days) at Atlanta, GA in hearing room ICC Hearing Room 401—4th Floor, 1776 Peachtree Street, NW.

MC-C-10327, CRST, INC., and the Kinnison Trucking Company—Investigation and Revocation of Certificates and Certificate of Registration, now assigned for hearing on August 18, 1980 (10 days) at Columbus, OH is cancelled.

MC 60012 (Sub-100F), Rio Grande Motor Way, Inc., now assigned for continued hearing on September 15, 1980 (3 days) at Denver, CO, September 18, 1980 (2 days) at Salt Lake City, UT, September 22, 1980 (5 days) at Farmington, NM, September 29, 1980 (2 days) at Amarillo, TX, October 1, 1980 (3 days) at Dallas, TX, and November 12, 1980 (3 days) at Denver, CO, location of hearing room will be designated later.

MC 10343 (Sub-37F), Churchill Truck Lines, Inc., now being assigned for continued hearing on September 8, 1980 (3 days) at Dallas, TX, September 11, 1980 (2 days) at Fort Smith, AR, September 15, 1980 (3 days) at Little Rock, AR, September 18, 1980 (2 days) at Memphis, TN, September 22, 1980 (3 days) at St. Louis, MO, September 25, 1980 (2 days) at Kansas City, MO, and November 17, 1980 (3 days) at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 147470F, Ray Cobb Transportation, Company, now being assigned for prehearing conference at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 1824 (Sub-96F), Preston Trucking Company, Inc., now being assigned for Prehearing Conference on September 15, 1980 at the Offices of the Interstate Commerce Commission at Washington, D.C.

MC 111231 (Sub-277F), Jones Truck Lines, Inc., now being assigned for Prehearing Conference on September 10, 1980 at the Offices of the Interstate Commerce Commission at Washington, D.C.

MC 2900 (Sub-409F), Ryder Truck Lines, Inc., now being assigned for Prehearing Conference on September 9, 1980 at The Office of Interstate Commerce Commission at Washington, D.C.

MC 30844 (Sub-641F), Kroblin Refrigerated Xpress, Inc., now being assigned for Prehearing Conference on September 8, 1980 at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 8922 (Sub-6F), The Wahl Moving & Transfer, Co., now being assigned for Prehearing Conference on September 29, 1980 at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 105857 (Sub-97F), Thurston Motor Lines Inc., now assigned July 29, 1980 at

Washington, D C. is canceled and application dismissed.

MC 118638 (Sub-5F). CGS Air Service, Inc., application is dismissed.

MC 100666 (Sub-463F). Melton Truck Lines, Inc., MC 114552 (Sub-225F), Senn Trucking Company, now assigned for hearing on October 14, 1980 (4 days) at Nashville, TN in a hearing room to be later designated.

MC 11220 (Sub-166F). Gordons Transports, Inc., now assigned for continued hearing on September 16, 1980 (2 days) at San Antonio, TX in a hearing room to be later designated.

MC 144682 (Sub-20F). R. R. Stanley, now assigned for hearing on September 18, 1980 (1 day) at Fort Worth, TX in a hearing room to be later designated.

MC 144682 (Sub-21F). R. R. Stanley, now assigned for hearing on September 19, 1980 (1 day) at Fort Worth, TX in a hearing room to be later designated.

MC 2934 (Sub-24F). Aero Mayflower Transit Co., Inc., now assigned for hearing on September 22, 1980 (1 day) at Los Angeles, CA in a hearing room to be later designated.

MC 141804 (Sub-237F). Western Express, Division of Interstate Rental, Inc., now assigned for hearing on September 23, 1980 (1 day) at Los Angeles, CA in a hearing room to be later designated.

MC 145359 (Sub-12F). Thermo Transport, Inc., now assigned for hearing on September 24, 1980 (1 day) at Los Angeles, CA in a hearing room to be later designated.

MC 143775 (Sub-72F). Paul Yates, Inc., now assigned for hearing on September 25, 1980 (2 days) at Los Angeles, CA in a hearing room to be later designated.

MC 147108 (Sub-2F). Carrier Transport Service, now assigned for hearing on September 8, 1980 (1 week) at San Francisco, CA in Room 510, 211 Main Street.

MC 66746 (Sub-23F). Shippers Express, Inc., now assigned for hearing on September 16, 1980 (4 days) at Jackson, MS will be held in the Jackson, Hilton, 750 North State Street, and continued to September 22, 1980 (5 days) at Memphis, TN, will be held at the Executive Plaza Inn, 1471 Easterbrook Road.

MC 106839 (Sub-8F). Larsen Motor Lines, Inc., now being assigned for hearing on September 15, 1980 (10 days) at New Orleans, location of hearing room will be designated later

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23438 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission on or before September 4, 1980. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: July 24, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

(In MC-F-14272F, Board Member Taylor votes to publish the application with an impediment to the effect that vendee has failed to show that it has sufficient funds to consummate the transaction and provide service under the authority to be controlled.)

MC-F-14424F, filed June 17, 1980. TRANSTATES, INC. (Transtates) (3216 Westminster Avenue, Santa Ana, CA 92703)—Purchase—TRANS CONTINENTAL CARRIERS (Trans Continental) (2761 East White Star, Anaheim, CA 92806). Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Transtates seeks authority to purchase the interstate operating rights of Trans Continental. Richard Bowers, the sole stockholder of Transtates, seeks authority to acquire control of said rights through the transaction. Transtates is purchasing the interstate operating rights of Trans Continental evidenced by Permit Nos. MC-139485 (Sub-1, 4, and 8), which authorize the transportation, as a motor contract

carrier, over irregular routes, of the following: (1) *paint and paint additives,* in containers, from Lakewood, Ohio, to San Jose and Los Angeles, CA, under continuing contract(s) with Limbacher Paint and Color Works, of Lakewood, OH; (2) *polyester body filler* (except in bulk), from Canton, OH, to Martinez, CA, and points in Los Angeles County, CA, under continuing contract(s) with U.S. Chemical & Plastic Co., of Canton, OH; and (3)(a) *bread,* between points in the United States (except AK and HI), and (b) *materials, equipment and supplies* used in the production of bread (except commodities in bulk), from points in the United States (except AK and HI), to points in Los Angeles County, CA, under continuing contract(s) with King's International Bakery, of Torrance, CA, and U.S. Sugar Company, of Buffalo, NY. Transtates is also purchasing the interstate operating rights of Trans Continental evidenced by Certificate MC-144855 (Sub-1), which authorizes the transportation, as a motor common carrier, over irregular routes, of *talc,* in bags, from Chester, VT, to Canton, OH. Transtates is a motor common carrier pursuant to authority under MC-144846 and sub-numbers thereunder and a motor contract carrier pursuant to authority under MC-139336 and sub-numbers thereunder. Condition: Applicants should file a Petition for Substitution of Applicant for approval of the transfer of all pending authority. (Hearing site: Los Angeles, CA.)

Note.—Application for temporary authority has been filed.

MC-F-14443F, filed July 10, 1980. ST. JOHNSBURY TRUCKING COMPANY, INC. (St. Johnsbury) (87 Jeffrey Avenue, Holliston, MA 01746)—Purchase (portion)—THE LAKE SHORE MOTOR FREIGHT COMPANY (Lake) (1200 South State Street, Girard, OH 44420). Representatives: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006 and Harry J. Jordan, Suite 502, Solar Building, 1000 16th Street, N.W., Washington, DC 20036. St. Johnsbury seeks to purchase a portion of the interstate operating rights of Lake. S.J.T., Inc. which controls St. Johnsbury through ownership of all of its capital stock and Sun Carriers, Inc. which in turn owns approximately 80 percent of the capital stock of S.J.T., Inc., and in turn Sun Company, Inc. which owns 100 percent of the outstanding stock of Sun Carriers, Inc. St. Johnsbury is purchasing that portion of the interstate operating rights contained in Lake's certificate issued in MC-13569 that authorizes the transportation, as a motor common carrier as follows: *general commodities,* usual exceptions, over irregular routes, between points in that portion of Allegheny County starting at the Pittsburgh City-Allegheny County line running northwest along the east bank of the Ohio River to the Allegheny-Beaver County line, then north and east along such Allegheny Beaver County line to Interstate Hwy 79, then south along Interstate Hwy 79 to the Pittsburgh-Allegheny County line, then west along such Pittsburgh-Allegheny County line to point of beginning, on the one hand, and, on the other, points in OH, that part of NY south of U.S. Hwy 104 and west of U.S. Hwy 111, that part of PA west of a line beginning at the PA-NY state line and extending along U.S. Hwy 11 to Pittaton, PA, then along U.S. Hwy 309 to Hazelton, PA, then along PA Hwy 29 to Tamaqua, PA, then along U.S. Hwy 209 to Pottsville, PA, then along U.S. Hwy 122 to Oxford, PA, and then along U.S. Hwy 1 to the PA-MD State line and those in that part of WV west of U.S. Hwy 19 and north of U.S. Hwy 30, including points on the indicated portions of the hwys specified. St. Johnsbury is a motor common carrier of general commodities serving the New England states, NY, NJ, and parts of PA and DE, pursuant to certificate No. MC-108473 and sub-numbers thereunder. Sun Company and Sun Carriers commonly control Milne Truck Lines, Inc., of Salt Lake City, UT operating under docket No. MC-44605 and sub-numbers thereunder, Jones Truck Lines, Inc. of Springdale, AR, operating under docket No. MC-11123 and sub-numbers thereunder. Condition: S.J.T., A non-carrier which directly controls St. Johnsbury and in turn Sun Carriers, Inc., also a non-carrier shall continue to be deemed a carrier within the meaning of 49 U.S.C. 11348 or Subtitle IV, subject to subchapter III of chapter 111 relating to reporting and accounting, and 49 U.S.C. 11302 relating to the issuance of securities. Impediment: The authority St. Johnsbury seeks to purchase from Lake is not consistent with Lake's authority in MC-13569 and therefore will be held open for further processing. (Hearing site: Washington, DC.)

Note.—An application for temporary authority has been filed.

MC-F-14405F, filed May 28, 1980. ELLEX TRANSPORTATION, INC. (Ellex) (P.O. Box 9637, 1420 West 35th Street, Tulsa, OK 74109)—Purchase (portion)—SCHANNO TRANSPORTATION, INC. (Schanno) (5 West Mendota Rd., West St. Paul, MN 55164). Representative: Jack R. Anderson, Suite 305, 9 East Fourth St., Tulsa, OK 74103. Ellex seeks authority to purchase a portion of the interstate operating rights of Schanno Kerr Consolidation, Inc., the sole stockholder of Ellex, and in turn, Breene M. Kerr, who controls Kerr through stock ownership, also seeks authority to control said rights through the transaction. Ellex is purchasing the interstate operating rights contained in Schanno's Certificate MC-134477 (Sub-223F), which authorizes the transportation, as a motor common carrier, over irregular routes, of (1) *such commodities as are dealt in by retail department stores,* and (2) *equipment, materials, and supplies used in the conduct of the retail department store business* (except commodities in bulk and foodstuffs), from the facilities of J. C. Penny Company, Inc., at Statesville, NC, to Denver, CO, Chicago, IL, Kansas City, and St. Louis, Mo, and Dallas and Houston, TX. Restriction: The authority is restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC-F-14362F, filed April 3, 1980. RISCO, INC. (Risco)—Control—LEIGHTY TRUCK LINE, INC. (Leighty); RISBERG'S TRUCK LINE, INC. (Risberg's)—Purchase—LEIGHTY TRUCK LINE, INC. (Leighty) (address of all parties: 2339 S.E. Grand Avenue, Portland, OR 97214). Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. Risco seeks to acquire control of Leighty through the purchase of all stock. Risberg's seeks authority to purchase the operating rights of Leighty. Risco's Inc., a non-carrier and sole stockholder of Risberg's, and in turn, Gerlad L. Risberg, the sole stockholder of Risco, Inc., seek authority to acquire control of Leighty through the transaction. Leighty is authorized to operate as a motor common carrier under MC-74052 which authorizes the transportation of (1) *general commodities* (usual exceptions), over regular routes, between Aurora, OR, and Portland, OR, serving the intermediate and off-route points of Barlow, Canby, New Era, and Coalca, OR, and those within 15 miles of Aurora: from Aurora over U.S. Hwy 99E to Portland, and return over the same route; (2) *seed* and *grain,* over irregular routes, (a) from points in Clackamas, Marion, Polk, Linn, Benton, and Lane Counties, OR, to Portland, OR, and Vancouver, WA, and (b) between points in Clackamas, Marion, Polk, Linn, Benton and Lane Counties, OR; and (3) *bananas,* and *bananas and fresh fruits and vegetables* in mixed shipments, from Portland, OR, to Aberdeen and Centralia, WA. Risberg's is a motor common carrier holding certificates

issued in MC–28905 and sub-numbers thereunder. Condition: Risco, Inc., is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Risco, Inc., will be considered a motor carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV. It will, therefore, be subject to the applicable provisions of 49 U.S.C. subchapter III of chapter 111 relating to reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities. (Hearing site: Portland, OR.)

MC–F–14411F, filed June 5, 1980. DUNES TRANSPORT, INC. (Dunes) (3965 North Meridian Street, Indianapolis, IN 46208)—Purchase—SCHEDULED TRANSPORT, INC. (Scheduled) (2350 Pike Street, Lake Station, IN 46405). Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 N. Meridian, Indianapolis, IN 46204. Dunes seeks authority to purchase the interstate operating rights of Scheduled. West Baking Company, Inc., a non-carrier and sole stockholder of Dunes, and in turn, Richard A. West and Stephen R. West, equal stockholders of West Baking Company, Inc., seek authority to acquire control of said rights through the transaction. Dunes is purchasing the interstate operating rights contained in Scheduled's certificates, Nos. MC–141811 (Sub-Nos. 2, 4, and 6), which authorize the transportation, as a motor common carrier, over irregular routes, of (1) *flour,* in bulk, in tank vehicles, from East Gary, IN, to those points in IN on and north of Interstate Hwy 70, those points in OH on and north of Interstate Hwy 70 and on and west of Interstate Hwy 71, and those points in the Lower Peninsula of MI; (2) *corn flour, corn grits, and corn meal,* in bulk, in tank vehicles, from the plant site of J. R. Short Milling Company, at or near Kankakee, IL, to points in IN, KY, MI, NY, OH, PA, and WI; and (3) *flour,* in bulk, in vehicles, from Lake City, MN, to points in MI, IL, IN, and OH. Dunes holds motor common carrier authority pursuant to Certificates issued in Docket No. MC–143708 and sub-numbers thereunder. Condition: So far as can be ascertained from the evidence of record in this proceeding, West Baking Company, Inc., is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, West Baking Company, Inc., will be considered a motor carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV. It will, therefore, be subject to the applicable provisions of 49 U.S.C. subchapter III of chapter 111 relating to reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities. (Hearing site: Indianapolis, IN, or Washington, DC.)

Note.—Application for temporary authority has been filed.

MC–F–14272 F, filed December 20, 1979. SEMINOLE TRUCK LINES, INC. (Seminole) (Route 1, Box 230, Altha, FL 32421)—Control—ARGO TRUCKING CO., INC. (Argo) (P.O. Box 955, Elberton, GA 30635). Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Seminole seeks to acquire control of Argo through the purchase of all Argo's issued and outstanding stock. Randy Shelton, the sole stockholder of Seminole, also seeks to acquire control of Argo through the transaction. Randy Shelton is also 25 percent stockholder of Shelton Trucking Co., Inc., which is a motor common carrier pursuant to authority issued in MC–124887 and sub-numbers thereunder. Argo is authorized to operate, pursuant to certificates in MC–110878 and sub-numbers thereunder, as a motor common carrier, over irregular routes, as follows: (1) *Granite* and *marble,* from Elberton, GA, and points within 15 miles thereof, and Tate, GA, and points within 20 miles thereof, to points in AL, FL, MS, LA, NC, SC, AR, TX, and points in MO (except St. Louis and points within 25 miles thereof). (2) *Damaged and defective shipments* of granite and marble, from the above-specified destination points to the above-designated origin points. (3) *Roofing and roofing materials,* from Mobile, AL, to Royston, Lavonia, and Elberton, GA. (4) *Prefabricated marble water closet stall partitions,* complete, from Nelson and Tate, GA., to points in AL, FL, MS, LA, NC, SC, AR, TX, and MO (except St. Louis and points within 25 miles thereof). (5) *Granite* and *marble,* from Elberton, GA, to points within 15 miles thereof, and from Tate, GA, and points within 20 miles thereof, to points in AZ, CA, CO, NV, NM, and UT; and (6) *Prefabricated marble water closet stall partitions,* complete, from Nelson and Tate, GA, to points in AZ, CA, CO, NV, NM, and UT; and (7) *Damaged and defective shipments* of the above specified commodities, from the above-described destination points, to their respective origin points. (8) *Granite* and *marble,* from Liberty Hill, SC, and points within 25 miles thereof (except points in Richland and Fairfield Counties, SC) to Elberton, GA, (9) *Granite,* (a) from Snyder, OK, to North Little Rock, AR, (b) from points in Elbert County, GA, to points in that part of Kansas on and south of a line beginning at the Kansas-Missouri State line and extending along Kansas Highway 68 to Ottawa, KS, then on and south of U.S. Highway 50 (formerly U.S. Highway 50S) to Florence, KS, and then on and east of U.S. Highway 77 to the Kansas-Oklahoma State line, and points in that part of Oklahoma on and east of U.S. Highway 77 from the Oklahoma-Kansas State line to Oklahoma City, OK, and then on and south of U.S. Highway 66 to the Oklahoma-Texas State line, (10) *Marble,* from points in Pickens County, GA, to points in and next above-described portions of KS and OK, (11) *Granite* and *marble,* from points in Elbert and Pickens Counties, GA, to points in KS north and west of a line beginning at the Kansas-Missouri State line and extending along Kansas Highway 68 to junction U.S. Highway 50 at Ottawa, KS, then along U.S. Highway 50 to Florence, KS, and then along U.S. Highway 77 to the Kansas-Oklahoma State line, and points in Oklahoma north and west of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 77 to Oklahoma City, OK, and then along U.S. Highway 66 to the Oklahoma-Texas State line, (12) *Abrasives* and *polishing machines* when moving on the same vehicles with presently authorized shipments of granite or marble, from Elberton, GA, to points in AL, MS, LA, AR, MO, KS, OK, TX, NM, CO, UT, AZ, NV, CA, NC, SC, FL, and TN, (13) *Oyster shells,* crushed, from Jacksonville, FL, to points in that part of GA on and north of U.S. Highway 80, (14) *Granite* and *marble,* (a) between points in AL, AZ, AR, CA, CO, FL, KS, LA, MO (except St. Marys and Middle Brook, MO, and points within 25 miles of each), MS, NV, NM, NC (except points in Rowan County, NC), OK, SC (except points in Richland and Fairfield Counties, SC), TX, and UT, (b) from points in the territory specified above, to points in GA, (15) *Marble,* monumental, from Tate, GA, and points within 20 miles thereof, to points in TN, and (16) *Damaged and defective shipments* of monumental marble, from points in TN, to Tate, GA, and points within 20 miles thereof, (18) *Salt,* in bags, cartons, and blocks, from points in Fort Bend and Harris Counties, TX, to points in AL, GA, MS, SC, and TN, (19) *Coke,* in bulk, from Birmingham, AL, to Elberton, GA, (20) *Iron and steel scrap,* from points in SC to Elberton, GA, (21) *Salt,* in bags, cartons, and blocks, from points in Fort Bend and Harris Counties, TX, to Pensacola, FL, (22) *Salt,* in bags, cartons and blocks, from points in Fort Bend and

Harris Counties, TX, to points in LA, (23) *Granite* and *marble,* (a) from points in GA, (except Elberton, GA, and points within 15 miles thereof, Canton, GA, and points within 30 miles thereof, and Lithonia, and Stone Mountain, GA), to points in MO, NC, and SC, (b) from points in GA, (except Elberton, GA, and points within 15 miles thereof, and Tate, GA, and points within 20 miles thereof), to points in AL, AZ, AR, CA, CO, FL, KS, LA, MS, NV, NM, OK, TN, TX, and UT, restricted in (23) above against the transportation of granite or marble, the transportation of which because of size or weight requires the use of special equipment or handling from the origin territory specified immediately above to points in FL, and further restricted against the transportation of granite and marble used as building and construction materials from the origin territory specified immediately above to points in FL. (24) *Concrete building and roofing slabs,* from Elberton, GA, to points in AL, AZ, AR, CA, CO, ID, KS, LA, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, and WY, (25) *Granite* and *marble,* from points in Rowan County, NC, to points in AL, FL, MS, LA, AR, NC, SC, TX, MO, TN, AZ, CA, CO, NV, NM, UT, GA, KS, and OK, (26) *Abrasives,* from Eustis, FL, to points in Elbert and Pickens Counties, GA, (27) *Ceramic tile,* from Coleman, TX, to points in AL, AZ, CA, FL, GA, MS, NV, NC, SC, and UT, and (28) *Granite and marble,* between Elberton, GA, and points within 15 miles thereof, and Tate, GA, and points within 20 miles thereof, on the one hand, and, on the other, Savannah, Ga, restricted to the transportation of traffic having a prior or subsequent movement by water. Condition: So far as can be ascertained from the evidence of record in this proceeding, Seminole is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Seminole will be considered a motor carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV. It will, therefore, be subject to the applicable provisions of 49 U.S.C. subchapter III of chapter 111 relating to reporting and accounting and of 49 U.S.C. 11302 relating to the issuance of securities. (Hearing site: Atlanta, GA, or Washington, DC.)

Note.—Seminole filed a directly related application, FD-29418F, under 49 U.S.C. 11301 and 11302 for authority to issue two demand notes totalling $1,261,171.05 to the ITT Industrial Credit Company. Because the "Motor Carrier Act of 1980" amended the finance exemption under 49 U.S.C. 11302(b) by raising the exemption limit from $1,000,000 to $5,000,000, this securities application is no longer necessary and will be dismissed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23440 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Applications for Relief (Formerly Fourth Section Application)

July 31, 1980.

These applications for long- and short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before August 20, 1980.

No. 43848, Sea-Land Service, Inc. (No. 110), rates on general commodities, in containers, from Ports in Japan, Korea, Hong Kong, Taiwan, Republic of The Philippines, Singapore, Malaysia and Thailand, to Rail carrier's terminal at Corpus Christi, TX, via interchange at Los Angeles and Oakland, CA. Rates are published in its Tariffs ICC SEAU 311, 325, 336, 357, 360 and 400, to become effective August 28, 1980. Grounds for relief—water competition.

No. 43849, Far Eastern Shipping Company (No. 18), rates on general commodities, in containers, between Rail carrier's terminals on the U.S. Atlantic and Gulf Coast, and Ports in Japan, Hong Kong, Australia, The Philippines, Singapore, Thailand, and West Malaysia, via interchange ports on the U.S. Pacific Coast. Rates are published in its Tariffs ICC FACU 600, to become effective August 24, 1980. Grounds for relief—water competition.

No. 43850, Southwestern Freight Bureau, Agent (No. B-83), rates on silica sand, in box cars, covered hoppers or opentop cars, in straight carloads, from La Salle, IL, to Stations in Arkansas, Kansas, Louisiana (west of the Mississipi River), Missouri, Oklahoma and Texas. Rates are published in its Tariffs ICC SWFB 4319, to become effective August 26, 1980. Grounds for relief—abandonment of operations via Rock Island at Utica, IL.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23439 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioners to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall

promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before September 4, 1980, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 200 (Sub-456F), filed June 18, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). In foreign commerce only, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in CA, to Chicago, IL, restricted to traffic destined to the facilities of Karl Schroff and Associates, Inc.

MC 730 (Sub-506F), filed May 16, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Nevada Corp., P.O. Box 8004, Walnut Creek, CA 94596. Representative: R. N. Cooledge (same address as applicant). Transporting *lubricating oil, drain oil, petroleum products, and chemicals,* in bulk, in tank vehicles, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Ekotek, Inc.

MC 730 (Sub-507F), filed May 19, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a NV corp., P.O. Box 8004, Walnut Creek, CA 94596. Representative: R. N. Cooledge (same address as applicant). Transporting *petroleum products and liquid chemicals,* in bulk, in tank vehicles, from New Orleans, LA, to points in the U.S. (except AK and HI).

MC 2900 (Sub-423F), filed May 19, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Rd., P.O. Box 2408-R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), and (2) *containers,* between Tacoma, WA, on the one hand, and, on the other, points in AZ, CA, CO, OR, UT, WA, restricted in (1) to traffic having a prior or subsequent movement by water.

MC 5470 (Sub-227F), filed May 19, 1980. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th St., NW., Washington, DC 20006. Transporting *scrap carbon, scrap grinding wheels, and scrap material* for recycling, in dump vehicles, between points in Lawrence County, PA, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, UT, and AZ.

MC 7840 (Sub-30F), filed May 19, 1980. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY 13601. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St, NW, Washington, DC 20001. Transporting *roofing materials, and materials, equipment and supplies* used in the manufacture of roofing materials (except commodities in bulk), between the facilities of Koppers Company, Inc., at (a) Youngstown, Wickliffe, and Heath, OH and (b) Follansbee, WV, on the one hand, and, on the other, points in IN, KY, MI, NY, PA, OH, WV, VA, DE, MD, NJ, CT, RI, MA, VT, NH, ME, and DC.

MC 7840 (Sub-31F), filed May 28, 1980. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY 13601. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St, NW, Washington, DC 20001. Transporting (1) *animal feed, animal feed ingredients, and animal feed supplements and additives* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near (a) Columbus, OH, and (b) Mattoon, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the named facilities.

MC 9291 (Sub-17F), filed May 6, 1980. Applicant: CARROL BALL TRANSPORT, INC., PO Box 53, Centerville, KS 66014. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting (1) *fabricated iron and steel articles, and storage tanks,* from Iola, KS to points in the U.S. (except AK and HI, and (2) *iron and steel articles,* from Houston, and Lone Star, TX, to Iola, KS.

MC 11220 (Sub-213F), filed May 28, 1980. Applicant: GORDONS

TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *composition board, and materials and supplies* used in the installation of composition board, from points in Lucas County, OH, to points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, OK, PA, TN, TX, WV, and WI, restricted to traffic originating at the facilities of Abitibi-Price Corporation.

Note.—Applicant may tack this authority with sought regular-route authority in IL, IN, IA, and MO, to serve points in Lancaster, Cass, Sarpy, Douglas, Saunders, Dodge, and Washington Counties, NE.

MC 11220 (Sub-215F), filed June 2, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Indianola, MS, Cleveland, Shelby, Strongsville, and Willard, OH, and Brownsville, TN, on the one hand, and on the other, points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, TN, TX, WV, and WI, restricted to traffic originating at or destined to the facilities of MTD Products, Inc.

MC 13651 (Sub-27F), filed May 19, 1980. Applicant: PEOPLES TRANSFER, INC., 1430 West 11th St., Long Beach, CA 90813. Representative: James H. Gulseth, 100 Bush St., 21st Floor, San Francisco, CA 94104. Transporting *scrap materials,* between points in AZ, CA, NV, OR, WA, ID, MT, UT, WY, CO, TX, NM, LA, and OK. (Hearing site: San Francisco, CA.)

MC 13700 (Sub-12F), filed May 13, 1980. Applicant: ROOKS TRANSFER LINES, INC., 650 East 16th St., Holland, MI 49423. Representative: Edward Malinzak, 900 Old Kent Bldg., One Vandenburg Center, Grand Rapids, MI 49503. Over *regular routes,* transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving South Bend, IN, as an off-route point in connection with applicant's regular-route operations, for purposes of interlining only.

MC 28241 (Sub-1F), filed June 2, 1980. Applicant: ASSOCIATED STORAGE & VAN, INC., 120 West Monroe St., Kokomo, IN 46901. Representative: Constance J. Goodwin, Suite 800, Circle Tower, Five East Market St., Indianapolis, IN 46204. Transporting *household goods,* between points in Adams, Allen, DeKalb, Kosciusko, Noble, Wells, and Whitley Counties, IN, and Defiance, Paulding, and Van Wert Counties, OH, on the one hand, and, on the other, points in FL, GA, IA, IL, IN, KY, MD, MI, MN, MO, MT, NJ, NY, OH, OK, PA, TX, TN, WI, WV, and WY.

MC 41951 (Sub-52F), filed June 3, 1980. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. Transporting *sugar, in packages,* from the facilities of National Sugar Refining Company, at or near Philadelphia, PA, to points in DE, those in Accomak and Northampton Counties, VA, and those in Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Somerset, and Worcester Counties, MD. (Hearing site: Philadelphia, PA.)

MC 47171 (Sub-171F), filed May 19, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in GA on and north of U.S. Hwy 20 (except Bartow, Cobb, DeKalb, Fulton, Gwinnett, Richmond and Rockdale Counties), on the one hand, and, on the other, Culpeper, Suffolk, Windsor, Norfolk, Madison Heights, Petersburg, Lester Manor, Richmond, Fredericksburg, Warrenton, Franklin, Lynchburg, Farmville, Smithfield, Danville, South Boston, Victoria, and Roanoke, VA, Washington, DC, Baltimore and Cumberland, MD, Wilmington and Cheswold, DE, points in CT, MA, NJ, NY, and RI, and those in PA east of the Susquehanna River.

MC 47171 (Sub-172F), filed May 23, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Emery Industries, Inc., at (a) Linden, NJ, (b) Lock Haven, PA, and (c) Mauldin, SC, on the one hand, and, on the other, those points in the U.S. east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between U.S. and Canada.*

MC 47171 (Sub-173F), filed May 28, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities,* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between those points in NC east of U.S. Hwy 77, on the one hand, and, on the other, Culpeper, Suffolk, Windsor, Norfolk, Madison Heights, Petersburg, Lester Manor, Richmond, Fredericksburg, Warrenton, Franklin, Lynchburg, Farmville, Smithfield, Danville, South Boston, Victoria, and Roanoke, VA, Washington, DC, Baltimore and Cumberland, MD. Wilmington and Cheswold, DE, and points in MA, PA, CT, NJ, NY, and RI.

MC 47171 (Sub-175F), filed June 16, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), betwen points in GA south of U.S. Hwy 20 (except points in Chatham, Clayton, Cobb, Coweta, DeKalb, Fayette, Fulton, Henry, Richmond, and Rockdale Counties), on the one hand, and, on the other, Culpepper, Suffolk, Windsor, Norfolk, Madison Heights, Petersburg, Lester Manor, Richmond, Fredericksburg, Warrenton, Franklin, Lynchburg, Farmville, Smithfield, Danville, South Boston, Victoria, and Roanoke, VA, Washington, DC, Baltimore and Cumberland, MD, Wilmington and Cheswold, DE, points in CT, MA, NJ, NY, and RI, and those points in PA east of the Susquehanna River.

MC 47171 (Sub-176F), filed June 17, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *alcoholic beverages,* from Hammondsport, NY, to points in GA.

MC 48441 (Sub-61F), filed May 14, 1980. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW, Washington, DC 20001. Transporting *general*

commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) from the facilities of Federal Warehouse Co., at or near Peoria, IL, to points in IA, IN, KY, MI, MN, MO, ND, NE, OH, SD, and WI.

MC 48441 (Sub-62F), filed May 14, 1980. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Transporting *drugs, chemicals, and toilet preparations* (except in bulk), from the facilities of Miles Laboratories, Inc., at Elkhart, IN, to the facilities used by Federal Warehouse, at or near Peoria, IL.

MC 56270 (Sub-46F), filed May 28, 1980. Applicant: LEICHT TRANSFER & STORAGE CO., a corporation, 1401–55 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). Transporting *clay, brick, and tile products,* from points in the U.S. (except AK and HI) to points in WI and the Upper Peninsula of MI.

MC 61440 (Sub-193F), filed June 2, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 Northwest 63rd St., Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), serving the facilities of Wal-Mart Stores, Inc., at Palestine, TX, as an off-route point in connection with applicant's otherwise authorized regular-route operations.

MC 69281 (Sub-55F), filed May 23, 1980. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a corporation, 698 Fairmount Ave., Baltimore, MD 21204. Representative: David W. Ayers, P.O. Box 58, Baltimore, MD 21203. Transporting *waste materials,* from Chambersburg, PA, to Baltimore, MD.

Note.—Applicant can tack this authority at Baltimore, MD, with existing regular-routes extending between New York, NY, and Norfolk, VA.

MC 78400 (Sub-86F), filed June 17, 1980. Applicant: BEAUFORT TRANSFER COMPANY, a corporation, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between the facilities of Custom Printing Company, at or near Owensville, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: St. Louis, MO.)

MC 79550 (Sub-8F), filed June 17, 1980. Applicant: ERSKINE TRUCKING, INC., 6210 Center Rd., Lowellville, OH 44436. Representative: James Duvall, P.O. Box 97, 222 West Bridge St., Dublin, OH 43017. Transporting (1) *roofing materials, and insulation* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk), between the facilities of Koppers Company, Inc., at or near (a) North Tonawanda, NY, (b) Heath, Wickliffe, and Youngstown, OH, (c) Morgan, PA, and (d) Follansbee, WV, on the one hand, and, on the other, points in IN, KY, MI, NY, OH, PA, and WV.

MC 87511 (Sub-29F), filed May 30, 1980. Applicant: SAIA MOTOR FREIGHT LINE, INC., P.O. Box 10157, Station One, Houma, LA 70360. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, Jackson, MS 39205. Over *regular routes,* transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the junction of LA Hwy 1 and U.S. Hwy 190 at or near Erwinville, LA, and Alexandria, LA, over LA Hwy 1, serving all intermediate points and serving points in St. Landry, Pointe Coupee, and Avoyelles Parishes, LA, as off-route points.

Note.—Applicant intends to tack or join this authority with its existing regular-route authority.

MC 95540 (Sub-1164F), filed June 2, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Rd., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). Transporting *toilet preparations,* and *such commodities* as are dealt in by grocery and food business houses, between points in MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 95540 (Sub-1165F), filed May 21, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Rd., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, motor vehicles, and boats), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Lowe's Companies or its subsidiaries.

MC 104960 (Sub-3F), filed May 28, 1980. Applicant: MOTOR FUEL CARRIERS, INC., 404 Elm Ave., P.O. Box 430, Panama City, FL 32401. Representative: James S. Wilson, 226 Main St., P.O. Box 151, Paris, KY 40361. Transporting *petroleum and petroleum products,* in bulk, in tank vehicles, (1) from points in FL to points in AL, GA, and MS, (2) from points in Jackson County, MS, to points in AL and FL, (3) from points in Mobile, Baldwin, and Montgomery Counties, AL, to points in FL, GA, and MS, (4) from points in Bibb, Decatur, Dougherty, Early, Muscogee, and Sumter Counties, GA, to points in AL and FL, and (5) from points in Duval County, FL, to points in NC and SC.

MC 106001 (Sub-20F), filed May 23, 1980. Applicant: DENNIS TRUCKING COMPANY, INC., 6951 Norwitch Dr., Philadelphia, PA 19153. Representative: James W. Patterson, Esq., 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *building materials and building supplies* (except in bulk), from points in Bradford County, PA, to points in CT, DE, GA, KY, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV and DC, restricted to traffic originating in Bradford County, PA, and destined to the indicated destinations.

MC 108651 (Sub-29F), filed June 16, 1980. Applicant: ROY B. MOORE, INC., P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in and east of Hawkins, Hamblen, and Cocke Counties, TN, on the one hand, and, on the other, Alexandria, Bluefield, Chesapeake, Damacus, Danville, Bristol, Gate City, Virgilina, Weber City, Cumberland Gap, Rich Creek, Suffolk, Lovettsville, and Leesburg, VA, and and (2) between points in and east of Hawkins, Hamblen, and Cocke Counties, TN, on the one hand, and, on the other, points in VA (except Alexandria, Bluefield, Chesapeake, Danville, Damacus, Bristol, Gate City,

Virgilina, Weber City, Cumberland Gap, Rich Creek, Suffolk, Lovettsville, and Leesburg). (Hearing site: Kingsport, TN, or Washington, DC.)

MC 108991 (Sub-20F), filed May 30, 1980. Applicant: SOUTHERN TRUCK LINES, INC., P.O. Box 508, Franklinton, LA 70438. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Contract carrier, transporting (1) *foodstuffs,* from the plantsite of Borden, Inc., at Franklinton, LA, to points in AL, AR, FL, GA, KY, MS, NC, SC, TN, TX, and VA; and (2) *such commodities* as are used in the manufacture, processing, and distribution, of foodstuffs, in the reverse direction, under continuing contract(s) with Borden, Inc.

MC 110410 (Sub-27F), filed May 19, 1980. Applicant: BENTON BROS. FILM EXPRESS, INC., 723 Forrest Rd., NE., Atlanta, GA 30312. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *distilled spirits,* between Jacksonville, FL, on the one hand, and, on the other, points in GA.

MC 110420 (Sub-851F), filed May 30, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Rd. P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by PPG Industries, Inc.

MC 110420 (Sub-852F), filed May 29, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Rd., P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting (1) *chemicals and petroleum products,* in bulk, in tank vehicles, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in bulk, in tank vehicles, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Sherex Chemical Company, Inc.

MC 110420 (Sub-853F), filed June 2, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Rd., P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting (1) *vegetable oils, and vegetable oil products,* in bulk, in tank vehicles, from Minneapolis, MN, to points in AL, AR, CA, CO, CT, FL, GA, IA, ID, IL, KS, LA, MA, ME, MI, MO, MS, NE, NC, NH, NY, OK, PA, RI, SC, TX, VA, VT, WV, WA, and WI, and (2) *liquid chemicals,* in bulk, in tank vehicles, from Newark, NJ, to points in IL, IN, IA, KY, MI, MN, MO, NY, OH, PA, WV, and WI.

MC 115311 (Sub-395F), filed May 19, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting (1) *building and insulating materials* (2) *pipe and pipe fittings* and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to the traffic originating at or destined to the facilities of CertainTeed Corporation.

MC 115821 (Sub-53F), filed June 2, 1980. Applicant: BEELMAN TRUCK CO., a corporation, P.O. Box 93, St. Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *flue dust,* in bulk, from Norfolk, NE, to the facilities of Frit Industries, at Humboldt, IA.

MC 115840 (Sub-121F), filed May 19, 1980. Applicant: COLONIAL FAST FREIGHT LINES, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Leonard Carroll (same address as applicant). Transporting *iron and steel articles,* and materials, equipment, and supplies used in the manufacture and distribution of iron and steel articles (except commodities in bulk), between Perth Amboy, NJ, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 118831 (Sub-194F), filed June 17, 1980. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller, III (same address as applicant). Transporting *liquid chemicals,* in bulk, in tank vehicles, (1) from Greensboro, NC, to points in WV and CA, and (2) from points in CA, and those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, to Greensboro, NC.

MC 119700 (Sub-72F), filed May 30, 1980. Applicant: STEEL HAULERS, INC., 306 Ewing Ave., Kansas City, MO 64125. Representative: Frank W.Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *fabricated iron and steel articles,* from the facilities of Havens Steel Company at or near Ottawa, KS, to points in AR, CO, IL, IN, IA, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, WI and WY.

MC 119741 (Sub-269F), filed May 19, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, 1515 Third Ave., NW, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *paper and paper products,* from the facilities of Gilman Paper Company at or near Hazelwood, MO, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC.

MC 119741 (Sub-270F), filed May 23, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave, NW, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *foodstuffs* (except in bulk, in tank vehicles), from the facilities of Anderson Clayton Foods at or near Jacksonville, IL, to points in AL, AR, FL, GA, LA, MS, NC, SC, and TN.

MC 121420 (Sub-22F), filed May 19, 1980. Applicant: DART TRUCKING COMPANY, INC., 61 Railroad St., Canfield, OH 44406. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215. Transporting *coal,* in bulk, in dump vehicles, from the facilities of Mahoning Creek Mine, in Armstrong County, PA, to points in OH and those in NY on and west of a line beginning at the PA-NY State line and extending over U.S. Hwy 11 to junction NY Hwy 13, and then over NY Hwy 13 to Lake Ontario.

MC 121470 (Sub-66F), filed May 28, 1980. Applicant: TANKSLEY TRANSFER COMPANY, A corporation, 801 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). Transporting *Iron and steel articles,* between the facilities of Bristol Steel and Iron Works, Inc., at or near Bristol, VA, on the one hand, and, on the other, points in AL and TN, restricted to traffic originating at or destined to the facilities of Bristol Steel and Iron Works, Inc.

MC 124511 (Sub-63F), filed May 30, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Hwy. 54, Mexico, MO 65265. Representative: Lenonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting (1) *refractories, refractory products, and insulating materials, and (2) materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, between the facilities of C-E Industrial Products Division Combustion Engineering, Inc., at or near (a) Vandalia and St. Louis, MO, (b) Aurora and Chicago Heights, IL, (c) Siloam, KY, (d) Newell, WV, (e) Pt. Kennedy, PA, and (f) Erwin, TN, and the facilities of Harbison-Walker Refractories Division,

Dresser Industries, Inc., at or near (a) Bessemer, Eufaula, and Fairfield, AL, (b) Brunswick and Calhoun, GA, (c) Hammond, IN, (d) Baltimore, Jennings, and Leslie, MD, (e) Ludington, MI, (f) Fulton and Vandalia, MO, (g) Cape May, NJ, (h) Portsmouth and Windham, OH, and (i) Clearfield, Mt. Union, and Templeton, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124511 (Sub-64F), filed June 16, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Highway 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *refractories, and insulating materials* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above (except commodities in bulk), between the facilities of Kaiser Refractories, at or near Mexico, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124821 (Sub-90F), filed May 2, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *canned goods,* from the facilities of Duffy-Mott Co., Inc., At Aspers, Hanover, and Mechanicsburg, PA, to points in NJ, NY, and PA.

MC 124821 (Sub-91F), filed May 30, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *glass bottles,* from the facilities of National Bottle Company at (a) Coventry, Providence and Woonsocket, RI, and (b) Westboro, MA, to points in CT, MD, ME, NH, NJ, NY, and PA.

MC 124821 (Sub-95F), filed June 17, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *general commodities* (except commodities in bulk, in tank vehicles, classes A and B explosives, household goods as defined by the Commission, those requiring special equipment, automobiles, trucks and buses), between points in the U.S., restricted to traffic originating at or destined to the facilities used by International Paper Company.

MC 125681 (Sub-6F), filed May 19, 1980. Applicant: MATERIALS TRANSPORT, INC., P.O. Box 248, Tell City, IN 47586. Representative: Warren C. Moberly, 320 North Meridian St. #777, Indianapolis, IN 46204. Transporting (1) *salt,* in bulk, in dump vehicles, from Evansville, Newburgh, and Rockport, IN, and the facilities of Mulzer Crushed Stone near Mt. Vernon, IN, to those points in IN on and south of U.S. Hwy 36, those in IL on, south, and east of a line beginning at the IL-IN State line and extending along U.S. Hwy 36 to Decatur, IL, and then along U.S. Hwy 51 to Cairo, IL, and those in KY on and west of U.S. Hwy 31-E; and (2) *crushed stone, sand, gravel, and agricultural limestone,* from points in Perry, Crawford, Dubois, Spencer, Warrick, Vendeburgh, Posey, and Gibson Counties, IN, to points in Lawrence, Richland, Clay, Wabash, Edwards, Wayne, Jefferson, Hamilton, White, Crawford, and Jasper Counties, IL. Condition: Issuance of a certificate is conditioned upon the coincidental cancellation, at applicants written request, of its permits in No. MC 125681 and MC 125681 (Subs 3, 4, and 5).

Note.—Applicant here seeks to convert its contract carrier permits to common carrier certificates.

MC 126320 (Sub-16F), filed June 3, 1980. Applicant: DETTINBURN TRUCKING, INC., Route 3, Box 24, Petersburg, WV 26847. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, D.C. 20014. Transporting (1)(a) *charcoal, charcoal briquettes, wood chips, vermiculite, lighter fluid, sawdust, wax impregnated fireplace logs, and barbecue equipment, materials, and supplies,* and (b) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (a) above (except commodities in bulk), between those points in the U.S. in and east of LA, AR, MO, IA, and MN, and (2) coal, from points in Berks, Northumberland, and Schuykill Counties, PA, to Parsons, WV, restricted in (1) and (2) above to traffic originating at or destined to the facilities of The Kingsford Company.

MC 126930 (Sub-48F), filed June 2, 1980. Applicant: BRAZOS TRANSPORT CO., a corporation, P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *roofing materials* from Arkadelphia, AR, to points in TX, OK, CO, LA, MS, AL, KS, MO, IL, IA, NE, TN, MN, WI, SD, ND, and NM.

MC 126930 (Sub-49F), filed June 2, 1980. Applicant: BRAZOS TRANSPORT CO., a corporation, P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting (1) *iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of iron and steel articles, between the facilities of Gulf Steel Corporation, at (a) Houston and Grand Praire, TX, (b) Memphis, TN, and (c) Tulsa, OK, on the one hand, and, on the other, points in OK, LA, MS, AR, MO, KS, CO, NE, SD, ND, NM, MN, WI, IA, IL, TN, AL, TX, and WY.

MC 126930 (Sub-52F), filed June 16, 1980. Applicant: BRAZOS TRANSPORT CO., a corporation, P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *lumber, lumber products, and particleboard,* from Kansas City, MO, to points in OK, LA, NM, MS, AR, KS, CO, NE, SD, ND, MN, WI, IA, IL, TN, AL, TX, and WY.

MC 127840 (Sub-164F), filed June 2, 1980. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Dr., Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *tallow,* in bulk, in tank vehicles, from Orlando, FL, to Avondale, LA, and Memphis, TN, and points in GA, NC, and SC.

MC 128021 (Sub-46F), filed May 19, 1980. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Contract carrier* transporting (1) *recreational products and sporting goods,* and (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), between points in the US (except AK and HI), restricted to traffic originating at or destined to the facilities of Diversified Products Corporation and its subsidiaries, under continuing contract(s) with Diversified Products Corporation.

MC 128220 (Sub-32F), filed May 16, 1980. Applicant: RALPH LATHAM, d.b.a. LATHAM TRUCKING COMPANY, P.O. Box 596, Burnside, KY 42519. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. Transporting (1) *charcoal, charcoal briquettes, vermiculite, hickory chips, fireplace logs, lighter fluid and spices and sauces* used in outdoor cooking, and (2) *materials, equipment and supplies* used in the manufacture, processing and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI).

MC 128940 (Sub-42F), filed May 30, 1980. Applicant: RICHARD A.

CRAWFORD, d.b.a. R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 303, Gambrills, MD 21054. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Contract carrier,* transporting *automotive parts, and materials and supplies* used in the manufacture and distribution of automotive parts (except in bulk), between Middletown, PA, Bridgewater, NJ, and Severn, MD, on the one hand, and, on the other, points in the U.S. (except ME, VT, RI, MA, CT, NY, NH, AK, and HI), under continuing contract(s) with Mack Trucks, Inc., of Bridgewater, NJ.

MC 133590 (Sub-26F), filed May 29, 1980. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. *Contract carrier,* transporting *such commodities* as are dealt in by manufacturers and distributors of beverages (except commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with M. S. Walker Incorporated and Southern Wine & Spirits, Inc.

MC 134300 (Sub-48F), filed May 30, 1980. Applicant: TRIPLE R EXPRESS, INC., 498 First St., NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting (1) *automobile accessories, home canning kits, cleaning compounds, plastic articles, metal articles, wooden articles, and rubber articles,* and (2) *equipment and supplies* used in the manufacture of the commodities in (1) above, between Huron, SD, and Savage, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134730 (Sub-25F), filed May 28, 1980. Applicant: METALS TRANSPORT, INC., 528 South 108th St., West Allis, WI 53214. Representative: M. H. Dawes (same address as applicant). *Contract Carrier,* transporting *fabricated metal products and iron and steel articles, and materials, equipment, and supplies* used in the manufacture and repair of fabricated metal products and iron and steel articles, between Appleton, WI, on the one hand, and, on the other, points in the U.S., including AK but excluding HI, under continuing contract(s) with Abel Manufacturing Co., Inc., of Appleton, WI.

MC 135170 (Sub-49F), filed May 23, 1980. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Contract carrier,* transporting *plastic bottles,* from points in PA to Frederick, MD, under continuing contract(s) with the Clorox Company.

MC 135221 (Sub-23F), filed May 28, 1980. Applicant: DICK SIMON TRUCKING, INC., 9541 South 5250 West, West Jordan, UT 84084. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *paper and paper products, and materials, equipment, and supplies* used in the manufacture, distribution, and sale of paper and paper products, (1) between the facilities of Packaging Corporation of America at (a) Salt Lake City, UT, and (b) Denver, CO, and (2) from the facilities of Packaging Corporation of America named in (1) above, to points in WA, OR, CA, NV, ID, MT, WY, CO, AZ, and NM.

MC 135231 (Sub-46F), filed June 2, 1980. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 North, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *paper forms* and (2) *materials, equipment, and supplies* used in the manufacture of paper forms (except commodities in bulk), between Arlington, TN, Merced, CA, and Manchester, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 135231 (Sub-47F), filed June 2, 1980. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 North, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *materials, equipment, and supplies* used in the manufacture and distribution of small arms ammunition and steel junction boxes (except commodities in bulk), from points in the U.S. (except AK and HI.) to Anoka, MN.

MC 135410 (Sub-102F), filed May 30, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, N. 6th Street Rd., Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by lawn and garden care centers and hardware stores (except commodities in bulk), from the facilities of Koos, Inc., at Kenosha, WI, to points in the U.S. (except AK and HI), restricted to traffic originating at the named origin.

MC 13661 (Sub-33F), filed May 28, 1980. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Transporting (1) *animal feed, animal feed ingredients, and animal feed supplements and additives* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Kal Kan Koods, Inc., at or near (a) Columbus, OH, and (b) Mattoon, IL, on the one hand, and, one the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the named facilities.

MC 138000 (Sub-71F), filed May 23, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., Hagerstown, MD 21740. Transporting *malt beverages,* from Pabst, GA, Peoria, IL, Newark, NJ, and Milwaukee, WI, to points in SC, NC, VA, MD, DE, IL, MO, IN, OH, MI, KY, TN, GA, NJ, WV, PA, WI, and DC.

MC 139420 (Sub-48F), filed June 17, 1980. Applicant: GLACIER TRANSPORT, INC., P.O. Box 428, Grand Forks, ND 58201. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55402. Transporting *alcoholic beverages,* from points in CA, to points in MN and ND.

MC 142461 (Sub-8F), filed May 29, 1980. Applicant: H & W TRUCKING CO., INC., P.O. Box 1545, Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. *Contract carrier,* transporting *new furniture and new furniture parts,* from the facilities of Mount Airy Furniture Company, at or near Mt. Airy, NC, to points in TX, CA, OR, WA, UT, AZ, NM, NV, and ID, under continuing contract(s) with Mount Airy Furniture Company.

MC 142920 (Sub-16F), filed May 31, 1980. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver St., Indianapolis, IN 46221. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier,* transporting *such commodities* as are dealt in or used by manufacturers and distributors of sound, communication, educational, or entertainment materials (except in bulk), (1) between points in PA, on the one hand, and, on the other, points in CA, IN, and IL, and (2) between points in IN, on the one hand, and, on the other, points in IL, under continuing contract(s) with CBS, Inc., of New York, NY.

MC 143061 (Sub-9F), filed May 27, 1980. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 528, Eden, NC 27288. Representative: Archie W. Andrews (same address as applicant). *Contract carrier,* transporting *pneumatic*

tires and tubes, from the facilities of B. F. Goodrich Tire Company, at or near (a) Miami, OK, and (b) Fort Wayne, IN, to points in NC, under continuing contract(s) with Piedmont Truck Tires, Inc., of Greensboro, NC.

MC 143280 (Sub-6F), filed May 23, 1980. Applicant: SAFE TRANSPORTATION COMPANY, a corporation, 6834 Washington Ave., South, Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *recreational vehicles,* from Chicago, IL and Lincoln, NE, to Minneapolis, MN.

MC 143300 (Sub-6F), filed May 29, 1980. Applicant: J. C. WOOLDRIDGE INC., Rt. 7, Box 43, Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *waste materials and scrap materials,* from points in Henry County, VA, to Norfolk, VA.

MC 143501 (Sub-5F), filed May 19, 1980. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes Rd., P.O. Box 523, S. Holland, IL 60473. Representative: James E. Savitz, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Contract carrier,* transporting *plastic materials and chemicals,* in containers, from the facilities of Amoco Chemicals Corporation near Joliet and Willow Springs, IL, to points in CA, CT, FL, GA, MA, NJ, NY, OR, PA, TX, and WA, under continuing contract(s) with Amoco Chemicals Corporation.

MC 143591 (Sub-2F), filed May 23, 1980. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *metal cores, and transformers* between Chicago, IL, on the one hand, and, on the other, Minnesota and Canby, MN.

MC 143621 (Sub-52F), filed June 18, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., P.O. Box 100991, Nashville, TN 37210. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *fabricated steel,* from the facilities of Mesker Steel, at or near Evansville, IN, to points in IA, KY, MS, MO, and WV.

MC 143630 (Sub-6F), filed May 23, 1980. Applicant: FLOYD M. GRIEBEL, SR., FLOYD M. GRIEBEL, JR., AND WILLIAM GRIEBEL, a Partnership, d.b.a. GRIEBEL TRUCKING, P.O. Box 243, Marengo, IL 60152. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. West, Bradenton, FL 33507. *Contract carrier,* transporting *nuts, bolts, hangers, brackets, and flat steel bars,* between the facilities of Marengo Tool and Die Works, Inc., at or near Marengo, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Marengo Tool and Die Works, Inc., of Marengo, IL.

MC 143790 (Sub-10F), filed June 2, 1980. Applicant: FEDERAL FREIGHT SYSTEMS, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic articles, and rubber products (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Goldsmith and Eggleton, Inc.

MC 143901 (Sub-5F), filed June 16, 1980. Applicant: THOROUGHBRED TRUCKING, INC., P.O. Box 928, Stanwood, WA 98292. Representative: Ronald P. Erickson, 2120 Pacific Bldg., Seattle, WA 98104. *Contract carrier,* transporting *such commodities* as are dealt in by food business and grocery houses, from Sunnyvale, CA, to points in NV, AZ, UT, ID, MT, CO, and NM, under continuing contract(s) with Shedd's Food Products of Sunnyvale, CA.

MC 14401 (Sub-46F), filed May 29, 1980. Applicant: DOWNS TRANSPORTATION CO., INC., P.O. Box 465, Conyers, GA 30207. Representative: Mark S. Gray, P.O. Box 872, Atlanta, GA 30301. Transporting (1) *toilet preparations, feminine hygiene products, and textile products,* and (2) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between New York, NY, on the one hand, and, on the other, Benson, Dunn, and Raleigh, NC.

MC 144140 (Sub-51F), filed May 29, 1980. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of Hamilton Beach, Inc.

MC 144621 (Sub-21F), filed May 25, 1980. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 15246, 1720 East Garry Avé., Santa Ana, CA 92705. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting *confectionery* (1) from the facilities of New England Confectionery Co., at or near Cambridge and Boston, MA, to points in WA, TX, and CA, (2) from San Antonio, TX, Macon, GA, and points in CA, to origin facilities in (1) above, (3) from facilities of Schrafft Candy Comp[illegible] or near (a) Boston and Woburn, and (b) West Reading, PA, points in OH, IN, MI, IL, TX, CA, WA, OR, and (4) from the facilities of M[illegible] Mars, Division of Mars, Inc., (a) near Oak Park and Chicago, IL, to points in MA, CA, OR, WA, and AZ, or near (i) Hackettstown, and (ii) Elizabeth, PA, to points in CA, WA, and AZ, and (c) at or near TX, to points in MA.

MC 145461 [illegible]F), filed June 17, 1980. Applicant: TENNESSEE-TEXAS EXPRESS, INC., P.O. Box 888, Gallatin, TN 37066. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, 38137. Transporting (1) *printed matter* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, between facilities of Donnelley Company, at or near Gallatin, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145820 [illegible]F), filed May 29, 1980. Applicant: NORTH CENTRAL DISTRIBUTING CO., a corporation, Box 5453 University Station, Fargo, ND 58102. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract carrier,* transporting *iron and steel articles,* (1) from Fargo, ND, to points in SD, MN, and MT, (2) from Omaha, NE, Sioux City, Wilton, and Carter Lake, IA, Duluth and Minneapolis, MN, Pittsburgh, PA, Sterling and Chicago, IL, Kansas City, St. Louis, and Maryville, MO, and Gary, IN, to points in ND, SD, MN, and MT, under continuing contract(s) with Northern Plains Steel, of Fargo, ND.

MC 145870 (Sub-22F), filed June 17, 1980. Applicant: L-J-R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting *iron oxide,* in bags, between those points in the U.S. in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities used by Hoover Color Corp.

MC 145950 (Sub-83F), filed May 27, 1980. Applicant: BAYWOOD TRANSPORT, INC., Route 6, Box 2611, Waco, TX 76706. Representative: Arthur W. Grimes, 2611 University Parks Dr.,

Waco, TX 76706. Transporting *plastic packaging materials* from the facilities of Sewell Plastics, at or near Jackson, MS, to Dallas and Houston, TX.

MC 146451 (Sub-29F), filed June 17, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, NE., Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomergy, AL 36197. Transporting *foodstuffs*, between the facilities of Fearn International, Inc., at or near Franklin Park, IL, on the one hand, and, on the other, points in LA, MS, TN, NC, SC, AL, GA, and FL.

MC 146521 (Sub-3F), filed May 29, 1980. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightsville, GA 31096. Representative: Ronald K. Kolins, 420 International Square, 1875 Eye St. NW., Washington, DC 20006. Transporting (1) *malt beverages*, from Detroit, MI, and Perrysburg, OH, to points in AL, FL, GA, NC, and SC, and (2) *equipment, materials, and supplies* used in the sale, manufacture, and distribution of malt beverages, in the reverse direction.

MC 146551 (Sub-10F), filed June 16, 1980. Applicant: TAYLOR TRANSPORT, INC., P.O. Box 285, Grand Rapids, OH 43522. Representative: Arthur R. Cline, 420 Security Bldg., Toledo, OH 43604. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of Union Camp Corporation.

MC 146721 (Sub-2F), filed May 29, 1980. Applicant: BURNETT TRUCKING, INC., 2626 E. 219th Place, Long Beach, CA 90810. Representative: Jesse F. Burnett (same address as applicant). Transporting *cement asbestos or pipe, plastic pipe and fittings, and insulating materials*, from the facilities of Johns-Manville Sales Corp., at points in CA, to points in AZ, CO, NM, and TX.

MC 146751 (Sub-9F), filed June 2, 1980. Applicant: J. C. LAWRENCE TRUCKING, INC., 1519 Ripley St., P.O. Box 5331, Lake Station, IN 46405. Representative: Fred H. Daly, 2550 M St. NW., Suite 475, Washington, DC 20037. Transporting (1) *refractories*, and (2) *equipment and supplies* used in the manufacture and installation of refractories, between the facilities of Harbison-Walker Refractories, Division of Dresser Industries, Inc., at or near (a) Baltimore, Jennings and Leslie, MD, (b) Bessemer and Fairfield, AL, (c) Calhoun, GA, (d) Cape May, NJ, (e) Portsmouth and Windham, OH, (f) Mt. Union, PA, (g) Fulton and Vandalia, MO, and (h) Hammond, IN, on the one hand, and, on the other, points in AL, GA, IL, IN, IA, KY, MD, MI, MS, MO, NY, OH, PA, TN, VA, WV, and WI.

MC 146771 (Sub-2F), filed June 16, 1980. Applicant: TRANS WEST CARRIERS, INC., 14416 Slover Ave., Fontana, CA 92335. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. Transporting *building materials, carpet, and carpet padding*, from points in CA, to those points in the U.S. in and west of MT, WY, CO, OK, and TX.

MC 146840 (Sub-6F), filed May 23, 1980. Applicant: BOYCHUKS' TRANSPORT LTD., P.O. Box 6298, Station "C", Edmonton, AB, Canada T5B 4K6. Representative: Richard S. Mandelson, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. In foreign commerce only, transporting (1) *rugs, carpets, and floor coverings*, and (2) *materials and supplies* used in the installation and maintenance of the commodities in (1) above, (except commodities in bulk), from the ports of entry on the international boundary line between the U.S. and Canada to those points in the U.S. in and west of WI, IL, MO, AR, and LA (except AK and HI).

MC 147281 (Sub-3F), filed May 23, 1980. Applicant: ROBERT G. WILLMENT and EDWARD J. BLYZWICK, JR. d.b.a. KEYSTONE AIR FREIGHT EXPEDITING, 119 McLaughlin Rd., Coraopolis, PA 15108. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the Greater Pittsburgh International Airport, PA, on the one hand, and, on the other, John F. Kennedy International Airport and LaGuardia International Airport, NY, Newark International Airport, NJ, Detroit Metropolitan Airport, MI, and Bradley International Airport, near Hartford, CT, restricted to traffic having a prior or subsequent movement by air.

MC 147420 (Sub-1F), filed March 17, 1980. Applicant: SHAVER TRUCKING, INC., P.O. Box 104, 3600 W. Sunset, Springdale, AR 72764. Representative: Larry D. Douglas, P.O. Box 711, 135 E. Emma, Springdale, AR 72764. *Contract carrier*, transporting *heating and cooling units*, from the facilities of Rheem Manufacturing Company, at or near Fort Smith, AR, to points in the U.S. (except AK, HI, and AR), under continuing contract(s) with Rheem Manufacturing Company of Forth Smith, AR.

MC 148210 (Sub-1F), filed June 3, 1980. Applicant: MINERAL TRANSPORT, INC., P.O. Box 566, Tonopah, NV 89049. Representative: Reese H. Taylor, Jr., 402 N. Division St., P.O. Box 646, Carson City, NV 89701. Transporting *ore and ore concentrates*, in dump vehicles, between points in Eureka, Mineral, and Elko Counties, NV.

MC 148241 (Sub-2F), filed May 30, 1980. Applicant: W. D. HODGE, d.b.a. INDEPENDENT TRANSFER, Route 1, Box 183, Sumter, SC 29150. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *lumber, lumber mill products, and building materials* (except in bulk), betwen Sumter, SC, on the one hand, and, on the other, points in GA, NC, TN, and VA, (2) *iron and steel articles*, between Sumter, SC, on the one hand, and, on the other, points in FL, GA, and NC, and (3) *scrap metals*, from Sumter, SC, to points in AL, DE, FL, GA, MD, OH, PA, NC, NJ, TN, VA, and WV.

MC 148341 (Sub-2F), filed February 4, 1980. Applicant: MASS TRANSIT, INC., 2450 Orange Ave., Signal Hill, CA 90806. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders as defined in Section 10102(8) of the Interstate Commerce Act, from Los Angeles, CA, to points in the U.S. (except AK, CA, and HI).

MC 148360 (Sub-9F), filed May 29, 1980. Applicant: PDR TRUCKING, INC., 6048 South York Rd., Highway 321 South, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. *Contract carrier*, transporting *such commodities* as are dealt in by department stores, from Charlotte, NC, to Youngstown and West Austintown, OH, under continuing contract(s) with Strouss Department Store, of Youngstown, OH.

MC 148881 (Sub-2F), filed June 2, 1980. Applicant: MARVIN BOZANICH and PETE BOZANICH, d.b.a. P. J.'S TRUCKING COMPANY, 3035 East Ocean Blvd., Long Beach, CA 90803. Representative: Marvin Bozanich (same address as applicant). *Contract carrier*, transporting *watches* from Los Angeles, CA, to points in the U.S. (except AK and HI), under continuing contract(s) with Seiko Time Corporation of Los Angeles, CA.

MC 149001 (Sub-2F), filed June 2, 1980. Applicant: SANDRA WEIKEL, d.b.a. L & S TRANSPORT, 12534 York St., Hawthorne, CA 90250. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Contract carrier,* transporting *plastic trays, plastic forms, and plastic sheeting,* not expanded between City of Industry and Visalia, CA, Kearney, Rockaway and Vineland, NJ, and Grant Park, IL, under continuing contract(s) with A & E Plastics, Division of A & E Plastik Pak, of City of Industry, CA.

MC 149280 (Sub-1F), filed June 17, 1980. Applicant: M & TRANSPORT, INC., 4117 Terminal Dr., Box 395, McFarland, WI 53558. Representative: Frank M. Coyne, 25 West Main St., Madison, WI 53703. Transporting *liquid fertilizer,* in tank vehicles, (1) from East Dubuque, Marseilles, Peru, Bellevue, Lemont and Cordova, IL, to points in IA and WI, (2) from Clinton and Dubuque, IA, to points in IL and WI, (3) from Winona, MN, to points in IL, IA, and WI, and (4) from LaCrosse, WI, to points in MN, IL, and IA.

MC 149370 (Sub-5F), filed May 28, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Rd., Atlanta, GA 30341. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St, NW, Washington, DC 20001. Transporting (1) *animal feed, animal feed ingredients, and animal feed supplements and additives* except commodities in bulk, and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near (a) Columbus, OH, and (b) Mattoon, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the named facilities.

MC 150180 (Sub-1F), filed May 27, 1980. Applicant: MENCHVILLE MARINE SUPPLY CORPORATION, 494 Menchville Rd., Newport News, VA 23602. Representative: T. V. Morrison, Jr., 9308 Warwick Blvd., P.O. Box 1003, Newport News, VA 23601. *Contract carrier,* transporting *brewer's condensed solubiles* from the facilities of Anheuser-Bush, at Williamsburg, VA, to points in MD, VA, NC, SC, PA, DE, and TN, under continuing contract(s) with Associates Research Management, Inc., of Crystal Lake, IL.

MC 150240 (Sub-1F), filed May 30, 1980. Applicant: FREIGHT SALES, Inc., 447 James Parkway, P.O. Box 1176, Newark, OH 43055. Representative: James R. Stiverson, 1396 W. Fifth Ave., P.O. Box 12241, Columbus, OH 43212. *Contract carrier,* transporting *petroleum and petroleum products,* between points in WV, those in PA on, south, and west of a line beginning at the OH-PA State line and extending along Interstate Hwy 76 to junction Interstate Hwy 70 at or near Breezewood, PA, and then over Interstate Hwy 70 to the PA-MD State line, those in OH on, south, and east of a line beginning at the PA-OH State line and extending along Interstate Hwy 76 to junction Interstate Hwy 71, and the along Interstate Hwy 71 to the OH-KY State line, and Catlettsburg, KY, under continuing contract(s) with River Oil Co. of Marietta, OH.

MC 150360 (Sub-1F), filed June 3, 1980. Applicant: KENNEDY CO., INC., d.b.a. BRENNAN TRANSPORTATION SERVICES, Pike Rd., Mt. Laurel, NJ 08054. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Rd. & Cottman St., Jenkintown, PA 19046. Transporting (1) *pharmaceutical tablets* from the facilities of PACO Packaging, Incorporated at Lakewood, NJ, to Philadelphia, PA and (2) (a) *drugs, toilet preparations, health care products, cosmetics, beauty aids, infant food, formula, nipple assemblies,* and (b) *materials* used in the distribution of the commodities in (2)(a) above, from Philadelphia, PA, to points in NJ.

MC 150610 (Sub-1F), filed May 23, 1980. Applicant: ELDON AND RALPH BRIDGEWATER, a Partnership d.b.a. BRIDEGWATER BROS., Blairstown, IA 52209. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting *silage inoculant,* in bags, between Durant and Marengo, IA, on the one hand, and, on the other, points in CO, IL, IN, KS, MO, and NE.

MC 150751 (Sub-1F), filed May 23, 1980. Applicant: HAROLD A. YOUNG, d.b.a. YOUNG'S EXPRESS, 21 Glenwood Ave., Southbridge, MA 01550. Representative: Russell S. Callahan, P.O. Box 1806, Brockton, MA 02403. Transporting *welding rods, wire, welding compounds, welding machines, welding machine parts, and electric motors,* from the facilities used by Lincoln Electric Co. at Waltham, MA, to points in RI.

MC 150910F, filed June 3, 1980. Applicant: RONALD R. PAYNE, d.b.a. EASTERN PLAINS EXPRESS, 1252 So. Eaton St., Lakewood, CO 80226. Representative: Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. Over *regular routes,* transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Denver, CO, and Wray, CO, from Denver over U.S. Hwy 6 to Brush, CO, then over U.S. Hwy 34 to Wray, and return over the same route serving Akron, CO, and all points between Akron and Wray on U.S. Hwy 34 as intermediate points.

MC 150921F, filed May 28, 1980. Applicant: C & K CARRIERS, INC., R.D. 2, Box 70, Walnutport, PA 18088. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. Contract carrier, transporting (1) *scrap metal,* in bulk, in dump vehicles, from Brooklyn, NY, and Clifton, NJ, to Cherryville, PA, (2) *brickets,* from Niagara Falls, NY, to Cherryville, PA, (3) *Sand,* in bulk, in dump vehicles, from Dorchester, NJ, to Cherryville, PA, and (4) *rough iron castings,* in drums, in dump vehicles, from Cherryville, PA, to point in NJ, Nassau, New York, and Suffolk Counties, NY, and La Zurich, IL, under continuing contract(s) in (1) through (4) with Dieter's Foundry, Inc., of Cherryville, PA.

MC 150960F, filed May 30, 1980. Applicant: DAVE STRICKLER, INC., 97 Anita Place, Mableton, GA 30059. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Contract carrier,* transporting *fused silica materials,* (1) from the facilities of Electro Minerals, Inc., at Lawrenceville, GA to Youngtown, OH, Grand Rapids and Pontiac, MI, Beaver Falls, PA, and Hillsboro, TX, and (2) from the facilities of M & T Manufacturing Co., Inc., at Grand Rapids, MI, to Lawrenceville, GA.

Passengers

MC 143851 (Sub-2F), filed May 23, 1980. Applicant: AIRPORTS PASSENGER SYSTEM, INC. 1414 Calcon Hook Rd., Sharon Hill, PA 19079. Representative: Leonard C. Zucker, 321 Brookline Ave., Cherry Hill, NJ 08002. Transporting *passengers and their baggage,* in special operations, in non scheduled door to door service, limited to the transportation of not more than 16 passengers in any one vehicle, not including the driver, and not including children under 10 years of age who do not occupy a seat or seats, between points in Chester, Montgomery, and Philadelphia Counties, PA, and Atlantic and Cape May Counties, NJ.

MC 148870 (Sub-1F), filed May 28, 1980. Applicant: GOODALL'S CHARTER BUS SERVICE, INC., P.O. Box 24, La Mesa, CA 92041. Representative: James C. Ruane (same address as applicant). Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in San Diego and Imperial Counties, CA, and extending to

points in OR, WA, ID, NV, AZ, NM, TX, CO, UT, WY, and MT.

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Decided: June 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 109584 (Sub-215F), filed June 16, 1980. Applicant: ARIZONA-PACIFIC TANK LINES, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *fertilizer*, in bulk, in tank vehicles, from points in Maricopa County, AZ, to points in Conejos and Costilla Counties, CO.

MC 116915 (Sub-120F), filed June 23, 1980. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *zinc articles* between all points in the U.S., restricted to shipments originating at or destined to the facilities of Inter-American Zinc, or their customers and suppliers. (Hearing site: Detroit, MI.)

MC 116915 (Sub-121F), filed June 23, 1980. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *iron and steel articles* between points in the U.S., restricted to the transportation of traffic originating at or destined to the facilities of Miami Steel Traders, Inc., or their customers or suppliers. (Hearing site: Miami, FL.)

MC 119755 (Sub-11F), filed June 23, 1980. Applicant: WEST-TRADE TRANSPORT LTD., P.O. Box 5300, Vancouver, BC, Canada V6B 4B6. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. Transporting *beer* (except in bulk in tank truck vehicles), restricted to foreign commerce only, from the facilities of Jos. Schlitz Brewing Co., at or near Van Nuys, CA to the United States-Canada international boundary at or near Blaine, WA. (Hearing site: Seattle, WA.)

MC 119755 (Sub-12F), filed June 23, 1980. Applicant: WEST-TRADE TRANSPORT LTD., P.O. Box 5300, Vancouver, BC, Canada V6B 4B6. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. Transporting *mineral water* (except in bulk in tank truck vehicles), restricted to foreign commerce only, from points in CA to the United States-Canada international boundary at or near Blaine, WA. (Hearing site: Seattle, WA.)

MC 121664 (Sub-128F), filed June 23, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35233. Transporting *roofing and roofing materials*, from Doraville, GA, to points in AL and KY.

MC 123294 (Sub-83F), filed June 23, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *paper and paper products, wood pulp, plastic and plastic products*, and *materials and supplies* used in the manufacture or distribution of the above-named commodities (except commodities in bulk), between the facilities of Georgia-Pacific Corporation, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities utilized by Georgia-Pacific Corporation. (Hearing site: Washington, DC.)

MC 126555 (Sub-82F), filed June 17, 1980. Applicant: BUTLER-JONES AIR FREIGHT, INC., Salisbury-Wicomico Airport, P.O. Box 1964, Salisbury, MD 21801. Representative: Peter A. Greene, 900 17th Street, N.W., Washington, DC 20006. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), between Baltimore-Washington International Airport, Anne Arundel County, MD, and Washington National Airport, Gravelly Point, VA, on the one hand, and, on the other, points in Kent County, DE. (Hearing site: Washington, DC.)

MC 126555 (Sub-83F), filed June 17, 1980. Applicant: BUTLER-JONES AIR FREIGHT, INC., Salisbury-Wicomico Airport, P.O. Box 1964, Salisbury, MD 21801. Representative: Peter A. Greene, 900 17th Street, N.W., Washington, DC 20006. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), between Philadelphia International Airport, Philadelphia, PA, on the one hand, and, on the other, points in Kent and Sussex Counties, DE. (Hearing site: Washington, DC.)

MC 126555 (Sub-84F), filed June 17, 1980. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *clay, clay products* and *clay byproducts* from Imvite, NV to points in WY, MT, and ND. (Hearing site: Denver, CO, or Las Vegas, NV.)

MC 127634 (Sub-4F), filed June 12, 1980. Applicant: GAMBRELL TRANSMOBILE, INC., 1820 Fairview Avenue, Augusta, GA 20904. Representative: Nathan I. Finkelstein, 1619 New Hampshire Avenue, N.W., Washington, DC 20009. Transporting *mobile homes* between points in GA, SC, FL, and AL. (Hearing site: Augusta, GA, or Atlanta, GA.)

MC 127974 (Sub-24F), filed June 16, 1980. Applicant: P. LIEDTKA TRUCKING, INC., 110 Patterson Avenue, Trenton, NJ 08610. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA, 19110. Transporting *commodities which because of size or weight require special equipment*, and *iron and steel articles*, between Philadelphia, PA, on the one hand, and, on the other, points in ME, NC, OH, PA, and WV. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 135395 (Sub-2F), filed June 16, 1980. Applicant: WAREHOUSE & TERMINAL CARTAGE CO., P.O. Box 1874, Bridgeview, IL 60454. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Contract carrier*, transporting *such commodities* as are dealt in by manufacturers and distributors of paper and paper products (except commodities in bulk), (1) between Munster, IN, on the one hand, and, on the other points in IL, WI, and MI; (2) between Marinette, Green Bay, Oconto Falls, and Fond du Lac, WI, on the one hand, and, on the other, points in IL, restricted to service under continuing contract(s) with Scott Paper Company. (Hearing site: Chicago, IL, or Philadelphia, PA.)

MC 135524 (Sub-137F), filed June 23, 1980. Applicant: G. F. TRUCKING COMPANY, P.O. Box 229, 1028 West Rayen Avenue, Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *iron and steel pipe tubing*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of (1) above, between Wyoming, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135524 (Sub-138F), filed June 9, 1980. Applicant: G. F. TRUCKING COMPANY, P.O. Box 229, 1028 West Rayen Avenue, Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *houses or buildings, and equipment, materials, and supplies* used in the manufacture, distribution, and erection thereof,

between the facilities of American Solartron Corp., at or near Centralia, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135895 (Sub-103F), filed June 16, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting *glass containers and closures* and *returned shipments of glass containers and closures,* between the facilities of Chattanooga Glass Company, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 138875 (Sub-285F), filed June 18, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). Transporting *chemicals* (except commodities in bulk), between points in ID, OR, UT, WA, and WY.

MC 138875 (Sub-286F), filed June 18, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). Transporting *building materials* (except commodities in bulk), from points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, to points in AZ, CA, ID, MT, NV, OR, UT, WA, and WY.

MC 138875 (Sub-287F), filed June 18, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). Transporting (1) *foodstuffs;* and (2) *materials and supplies* used in the manufacture of (1) above (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of H. J. Heinz Co. and affiliates.

MC 138875 (Sub-288F), filed June 18, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). Transporting (1) *building and construction materials,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above (except in bulk, in tank vehicles), between the facilities of The Celotex Corporation, a Jim Walter Company, at or near Fremont, CA, and all points in and west of MT, WY, CO, and NM.

MC 140615 (Sub-57F), filed June 16, 1980. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (same address as applicant). Transporting *plastic materials* (except in bulk), from points in IL to points in MN, SD, and WI, restricted to traffic originating at the facilities of American Hoechst Corporation.

MC 141774 (Sub-35F), filed June 16, 1980. Applicant: R & L TRUCKING CO., INC., 105 Ricket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting (1) *alcohol anti-freeze, anti-freeze proprietory compounds, de-icing proprietory, windshield washer solvent, petroleum and petroleum products, additives, agricultural chemicals,* (except commodities in bulk, in tank vehicles), *containers and enclosures,* from points in Montgomery County, AL to points in FL, GA, MS, TN, KY, AR, and LA; and (2) *materials, equipment, and supplies* as are used in the manufacture, sale and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), from points in FL, GA, MS, TN, KY, AR, and LA to points in Montogomery County, AL.

MC 141914 (Sub-82), filed June 11, 1980. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: E. Stephen Heisley 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, DC 20001. Transporting (1) *animal feed, animal feed ingredients, animal feed supplements and additives* (except commodities in bulk); and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Columbus, OH, and Mattoon, IL, on the one hand, and, on the other, all points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to the above-named facilities.

MC 143484 Sub 1F, filed June 23, 1980. Applicant: GLENN'S DELIVERY SERVICE, INC., Route 130 and Dwight Ave., Woodlynne, NJ 08107. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *confectionery products (except in bulk), between Philadelphia, PA, on the one hand, and, on the other, New York, NY, and points in CT, DE, MA, MD, NJ, PA, and DC.*

MC 145394 (Sub-3F), filed June 17, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract carrier,* transporting *plastic automotive parts,* from Baraboo, WI, to Belvidere, IL, restricted to transportation performed under a continuing contract with Chyrsler Corporation Belvidere Assembly Plant, Belvidere, IL.

MC 146704 (Sub-9F), filed June 4, 1980. Applicant: FALCON MOTOR TRANSPORT, INC., a Corporation, 1250 Kelly Avenue, Akron, OH 44306. Representative: Paul A. Englehart (same address as applicant). *Contract carrier,* transporting (1) *building materials and supplies* (except commodities in bulk); (2) *such commodities* as are dealt in by retail department and discount stores (except commodities in bulk); and (3) *fixtures, materials, equipment and supplies* used in the conduct of such business as named in (2) above (except commodities in bulk), between facilities of Forest City Enterprises, Inc., and points in the U.S. east of ND, SD, WY, CO, and NM.

MC 147054 (Sub-4F), filed June 16, 1980. Applicant: JAMES RAY BRADY, DBA, J. R. Brady Trucking, Route 3, Box 265, Enochville Avenue, Kannapolis, NC 28081. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., 301 S. McDowell Street, Charlotte, NC 28204. Transporting *cotton and rayon piece goods* from Concord, NC, to Los Angeles and San Francisco, CA, and San Antonio, TX, and points in their respective commercial zones.

MC 149065 (Sub-1F), filed June 23, 1980. Applicant: MODE TRANSPORT CORPORATION, Distribution Street, Port Newark, NJ 07114. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier,* transporting (1) *building, construction, and industrial materials* (except commodities in bulk); and (2) *machinery, materials and supplies* used in the manufacture and distribution of commodities in (1) above, between the facilities of Jim Walter Corporation, its companies and subsidiaries, in IL, IN, MD, MI, NJ, NY, NC, OH, PA, SC, and VA, on the one hand, and, on the other, NY, NJ, and PA, restricted to shipments having prior or subsequent movement by water, under continuing contract(s) with Jim Walter Corporation of Tampa, FL.

MC 149105 (Sub-3F), filed June 16, 1980. Applicant: BAYOU STATE TRUCKING, INC., 639 S. Rendon Street, Suite 303, New Orleans, LA 70119. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 367, Arlington, VA 22201. Transporting (1) *paper and paper products;* (2) *plastic* (except in bulk) *and plastic articles;* and (3)

materials, equipment, and supplies used in the manufacture and distribution of commodities in (1) and (2) above, between points in AL, AR, FL, GA, KS, KY, LA, MS, MO, NC, OK, SC, TN, TX, VA, and DC.

MC 150675 (Sub-1F), filed June 11, 1980. Applicant: CENTRAL INTERMODAL CORP., 2801 Spring Grove Avenue, Cincinnati, OH 45225. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting *paper and paper products,* and *materials, supplies, and commodities* used or useful in the manufacture and distribution of paper and paper products (except commodities in bulk), between points in IL, IN, KY, MI, and OH, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, OK, TX, and WI.

MC 151125F, filed June 23, 1980. Applicant: MOBILE BAY ENTERPRISES, INC., 8461 Airport Boulevard, Mobile, AL 36608. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36197. Transporting *passengers and their baggage,* between Mobile Municipal Airport-Bates Field, Mobile, AL, on the one hand, and, on the other, points in Harrison, Jackson, and George Counties, MS, and Escambia, Okaloosa, and Santa Rosa Counties, FL.

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Decided: July 10, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill. Member Fortier not participating.

MC 1824 (Sub-125F), filed June 24, 1980. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 700 World Center Building, 918 Sixteenth Street, N.W., Washington, DC 20006. Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Cleveland, OH and St. Louis, MO, (a) from Cleveland over I-Hwy 71 to junction US Hwy 50, then along US Hwy 50 to St. Louis, and return over the same route, (b) from Cleveland over I-Hwy 71 to junction I-Hwy 70, then over I-Hwy 70 to St. Louis, and return over the same route; (2) between Toledo, OH and St. Louis, MO: from Toledo over I-Hwy 75 to junction I-Hwy 70, then over I-Hwy 70 to St. Louis, and return over the same route; (3) between Ft. Wayne and Indianapolis, IN: from Ft. Wayne over US Hwy 24 to junction I-Hwy 69, then over I-Hwy 69 to Indianapolis, and return over the same route; (4) between South Bend, and Columbus, IN: from South Bend over I-Hwy 31 to junction I-Hwy 65, then over I-Hwy 65 to Columbus, and return over the same route; (5) between Chicago, IL and Indianapolis, IN, from Chicago over I-Hwy 94 to junction I-Hwy 65, then over I-Hwy 65 to Indianapolis, and return over the same route; (6) between Chicago and Danville, IL: from Chicago over IL Hwy 1 to junction US Hwy 136, then over US Hwy 136 to Danville, and return over the same route; (7) between Cleveland, OH and Peoria, IL: from Cleveland over I-Hwy 71 to junction I-Hwy 70, then over I-Hwy 70 to junction I-Hwy 74, then over I-Hwy 74 to Peoria, and return over the same route; (8) between junction US Hwys 30 and 119, and St. Louis, MO: from junction US Hwys 30 and 119, then over US Hwy 119 to junction I-Hwy 70, then over I-Hwy 70 to St. Louis, and return over the same route; (9) between Pittsburgh, PA and St. Louis, MO: from Pittsburgh over US Hwy 22 to junction I-Hwy 70, then over I-Hwy 70 to St. Louis, and return over the same route, serving all intermediate points in connection with the routes named in (1) through (9) above, and as off-route points, those points in IN on and north of US Hwy 50. Applicant intends to tack authority sought with authority held under Docket No. MC 1824 and all subs thereunder. Applicant intends to interline with present connecting carriers at authorized points including but not limited to Ft. Wayne, IN, Norfolk, VA, Baltimore, MD and Chicago, IL. (Hearing site: Indianapolis, IN or Washington, DC.)

MC 2484 (Sub-57F), filed June 18, 1980. Applicant: E & L TRANSPORT COMPANY, 23420 Ford Road, Dearborn Heights, MI 48127. Representative: Eugene C. Ewald, 100 West Long Lake Road—Suite 102, Bloomfield Hills, MI 48013. Transporting *motor vehicles* (except trailers), in secondary movements, in truckaway and driveaway service, from points in Jefferson County, KY to points in the U.S. (except AK and HI).

MC 2934 (Sub-89F), filed May 19, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 N. Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting *carpet* and *carpet padding,* from Trenton, NJ, and Philadelphia and Eddystone, PA, to points in AL, FL, GA, IL, IN, KY, MI, MO, NC, OH, SC, TN, VA, and WV.

MC 8535 (Sub-122F), filed June 17, 1980. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., NW., Washington, DC 20036. Transporting *machinery, machines, tools,* and *parts and accessories for machinery, machines and tools,* from the facilities of Monarch Machine Tool Company at or near Cortland (Cortland County), NY, to points in the U.S. (except AK and HI).

MC 14215 (Sub-89F), filed June 23, 1980. Applicant: SMITH TRUCK SERVICE, INC., 1116 Commercial, Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *alloys, fluxing agents, and iron bearing charge material,* from the facilities of Mercier Corp. at Dearborn, MI to points in the U.S. in and east of MN, IA, MO, OK and TX; (2) *coke,* from the facilities of Erie Coke & Chemical Corp., a subsidiary of Mercier Corp. at Fairport Harbor, OH to points in IL, IN, MI, NY, OH, PA and WV; and (3) *ores and fluxing agents,* from the facilities of International Briquetting, Div. of Mercier Corp. at Baltimore, MD to points in OH, PA and WV. (Hearing site: Washington, DC.)

MC 30374 (Sub-33F), filed June 23, 1980. Applicant: TRI-STATE TRANSPORTATION CO., INC., P.O. Box 488, Bellmawr, NJ 08031. Representative: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *wearing apparel,* on hangers and in cartons, (2) *materials, supplies and equipment* used in the manufacture of wearing apparel, and (3) *department store merchandise* in mixed loads with commodities in (1) and (2), between Philadelphia, PA, on the one hand, and, on the other, points in DE. (Hearing site: Philadelphia, PA.)

MC 30844 (Sub-692F), filed June 23, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry Strickler, P.O. Box 5000, Waterloo, IA 50704. Transporting *petroleum and petroleum products, automotive chemicals, and cleaning compounds,* and *equipment, materials, and supplies,* used by automotive service centers (except in bulk) between the facilities of Valvoline Oil Company, a division of Ashland Oil, Inc., at Willow Springs, IL, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI, and WY, restricted to traffic originating at or destined to named facilities.

MC 45544 (Sub-6F), filed June 16, 1980. Applicant: SILVER LINE, INC., 171 Commerce Road, Carlstadt, NJ 07072. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Transporting *wearing apparel*

and *commodities* (except commodities in bulk), used in the manufacture and distribution of wearing apparel, between New York, NY, and points in Bergen, Passaic, Hudson, Essex, Union, Middlesex, Morris, Somerset, Hunterdon and Warren Counties, NJ, on the one hand, and, on the other, points in PA (except points in Philadelphia, Bucks, Montgomery, Northampton, Northumberland, Lehigh, Carbon, and Schuylkill Counties, PA.) (Hearing site: Scranton, PA, and New York, NY.)

MC 69024 (Sub-5F), filed June 23, 1980. Applicant: H. B. RUSSELL TRUCK SERVICE, INC., 104 Orange St., Red Bud, IL 62278. Representative: Gale H. Stellhorn (same address as applicant). Transporting (1) *wood and coal burning stoves, gas and electric ranges and ovens, parts and accessories,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the foregoing commodities (except commodities in bulk and those requiring the use of special equipment), between the facilities of Autocrat Corporation at or near New Athens, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: St. Louis, MO, or Springfield, IL.)

MC 94265 (Sub-357F), filed June 24, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor,VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *meats, meat products, meat by products and articles distributed by meat-packing houses* (except hides and commodities in bulk) (1) from Jarratt (Greensville Cty) VA to points in AL, FL, GA, NC, SC, TN, KY, OH, WV, PA, MD, DC, DE, NJ, NY, CT, RI, MA, NH, VT, ME, and MI; and (2) from points in IL, IN, IA, KS, MO, MN, NE, ND, OH, OK, SD, and TX to Jarratt (Greensville Cty) VA. (Hearing site: Atlanta, GA or Washington, DC.)

MC 96324 (Sub-43F), filed June 20, 1980. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting *such commodities* as are used, manufactured, processed or dealt in by manufacturers of containers between points in the U.S. in and east of TX, AR, MO, IN and MN.

MC 106074 (Sub-155F), filed June 18, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy 221 S., Forest City, NC 38043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, 30328. Transporting *air cleaners, fuel and oil filters, air cleaner cartridges; and materials and supplies* used in the distribution of such commodities from Gastonia, NC and Dillon, SC to points in AL, AR, FL, IL, IN, IA, KS, LA, MN, MO, MI, NE, ND, OK, SD, TX, and WI.

MC 106074 (Sub-156F), filed June 20, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. an U.S. Hwy 221S., Forest City, NC 38043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *meats, meat products, and meat by-products; and articles distributed by meat packing houses* (except hides and commodities in bulk) between points in NC, on the one hand, and, on the other, points in GA, KY, CO, IL, IA, KS, MN, NE and PA.

MC 112595 (Sub-92F), filed June 23, 1980. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, OH 45638. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. Transporting *chemicals,* between Cincinnati, OH, on the one hand, and, on the other, points in GA, IL, IN, KY, KS, LA, MD, MI, PA, TX and WV. (Hearing site: Columbus, OH, or Washington, DC.)

MC 112595 (Sub-93F), filed June 23, 1980. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, OH 45638. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. Transporting *chemicals, in bulk,* from the facilities of United States Steel Corporation at or near Haverhill, OH, to points in the U.S. (except AL and HI), (Hearing site: Columbus, OH, or Washington, DC.)

MC 126555 (Sub-86F), filed June 16, 1980. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *cement,* between points in TX, CO, WY, MT, SD and ID.

MC 134484 (Sub-29F), filed June 17, 1980. Applicant: EDWARDS BROS., INC., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting *meats, meat products, meat by-products and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions on Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Boise, ID and at points in Walla Walla County, WA, to those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI).

MC 142715 (Sub-107F), filed June 24, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *plastic products,* and *equipment, materials* and *supplies* used in the manufacture and distribution of plastic products (except commodities in bulk), between Belle Plaine and St. Boniface, MN, Grundy Center, IA, Gastonia, NC, and Spartanburg, SC, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX, restricted to traffic originating at the named origins and destined to the named States.

MC 142715 (Sub-108F), filed June 24, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *record storage systems* and *equipment, materials* and *supplies* used in the manufacture and distribution of record storage systems (except commodities in bulk), between Itasca, IL, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, KS, OK and TX.

MC 142715 (Sub-109F), filed June 24, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *housewares* and *equipment, materials* and *supplies* used in the manufacture and distribution of housewares (except comodities in bulk), between Chicago and Franklin Park, IL, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, KS, OK and TX.

MC 142715 (Sub-110F), filed June 24, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *medical supplies* and *commodities* used in the manufacture and distribution of medical supplies, between points in Hennepin and Ramsey Counties, MN, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, CO, OK and TX.

MC 142715 (Sub-111F), filed June 24, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *clothing* and *equipment, materials* and *supplies* used in the manufacture and distribution of clothing (except commodities in bulk), between points in the U.S. in and east of ND, SD, NE, CO, OK and TX, restricted to traffic originating at or destined to the facilities utilized by Munsingwear, Inc.

MC 144655 (Sub-1F), filed June 24, 1980. Applicant: ARCTIC TRANSPORT, INC., 4750 West Maine, Fargo, ND 58102.

Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55402. *Contract carrier,* transporting (1) *commercial freight trailers, and parts and accessories* for the foregoing commodities, between points in the U.S. (except AK and HI), and (2) *materials, supplies and parts* used in the manufacture of commercial freight trailers, from points in the U.S. (except AK and HI) to the facilities of Polar Tank Trailers, Inc. at or near Holdingford and Opole, MN, and the facilities of American Trailers, Inc., at or near Great Bend, KS, and Oklahoma City, OK, under continuing contract(s) with Polar Tank Trailers, Inc., and American Trailers, Inc.

MC 145054 (Sub-35F), filed May 30, 1980. Applicant: COORS TRANSPORTATION COMPANY, 5101 York St., Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, Denver, CO 80264. Transporting *salad dressings, sour cream, and whip cream,* from City of Industry, CA to points in CO.

MC 145235 (Sub-8F), filed June 17, 1980. Applicant: DUTCH MAID PRODUCE, INC., RD #2, Willard, OH 44890. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Contract carrier, transporting (1) *foodstuffs* and (2) *materials, equipment and supplies* used in the processing and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Bil-Mar Foods, Inc. and its subsidiaries at or near Storm Lake, IA, Zeeland, MI, and Garrettsville, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Bil-Mar Foods, Inc. of Zeeland, MI.

MC 145524 (Sub-1F), filed May 8, 1980. Applicant: WHITEFISH TAXI, INC., 1410 East Edgewood Drive, Whitefish, MT 59937. Representative: Dale G. Duff (same as above). (A) Over regular routes, transporting *passengers and their baggage, and express and newspapers in the same vehicle with passengers,* (1) between Great Falls and East Glacier, MT, from Great Falls over US Hwy 89 to Browning, MT, then over US Hwy 2 to East Glacier and return over the same route, serving all intermediate points and (2) between Valier, MT, and junction US Hwy 89 and MT Hwy 44, over MT Hwy 44, serving all intermediate points, and serving the junction of US Hwy 89 and MT Hwy 44 for purposes of joinder, and (B) Over irregular routes, transporting *passengers and their baggage,* in charter and special operations, between points in Cascade, Toole, Pondera, and Teton Counties, MT, on the one hand, and, on the other, points in CA, ID, MT, NV, ND, OR, SD, UT, WA, and WY.

MC 147665 (Sub-3F), filed June 23, 1980. Applicant: BASSETT FURNITURE INDUSTRIES OF NORTH CAROLINA, INC., d/b/a BASSETT TRUCKING COMPANY, P.O. Box 47, Newton, NC 28658. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract carrier,* transporting *pails and drums,* from the facilities of Calig Steel Drum Co. in PA to points in VA, NC, SC, GA, TN, and WV, under a continuing contract(s) with Calig Steel Drum Company, of McKees Rocks, PA.

MC 148144 (Sub-1F), filed June 23, 1980. Applicant: RALPH J. MARQUARDT & SONS, INC., Rural Route 1, Box 203A, Volin, SD 57072. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Contract carrier,* transporting *aluminum,* between Yankton, SD, on the one hand, and, on the other, points in AL, FL, and MS, under a continuing contract(s) with Alumax Extrusion, Inc.

MC 149195 (Sub-6F), filed June 23, 1980. Applicant: ARCADIAN MOTOR CARRIERS, 1831 Simpson, Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant). Transporting *electronic equipment and the parts, accessories, materials and supplies* used in the manufacture and distribution of electronic equipment, between Sunnyvale, CA, El Paso, TX, Wheeling, IL, and Edison, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Atari Inc.

MC 149404F, filed March 5, 1980. Applicant: POTAWATOMI TRAILS, INC., 51585 Winding Waters Lane, Elkhart, IN 46514. Representative: Richard P. Miller (same address as applicant). Transporting such commodities as are dealt in or used by the manufacturers and distributors of mobile homes, buildings in sections and recreational vehicles (except commodities in bulk, in tank vehicles), between points in Elkhart County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted against originating at or destined to the facilities used by G. M. Distributors, Inc., G. M. Industrial Corporation at or near Elkhart, IN.

MC 150344 (Sub-2F), filed May 19, 1980. Applicant: STEVEN D. HORN, d/b/a HORN FARMS, R.R. #3, Charleston, IL 61920. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting (a) *gravel,* from Clinton, IN to Paris, Charleston, and Mattoon, IL (b) *sand,* from Clinton, IN to Paris and Charleston, IL, and (c) *limestone,* from Clinton, Jordan, Cloverdale and Greencastle, IN to points in IL.

MC 150424 (Sub-1F), filed June 23, 1980. Applicant: NESHEM-PETERSON, INC., Berthold, ND 58718. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Contract carrier,* transporting (1) *grain drying and grain handling equipment and supplies,* and (2) *knocked down grain bins,* and *steel building* and *parts and accessories,* from points in the U.S. (except AK and HI), to points in ND, under a continuing contract(s) with Nesham-Peterson, Inc.; (3) *Such equipment, materials and supplies* as are used in the manufacture and assembly of semi-trailers, agricultural machinery, and agricultural implements, from points in the U.S. (except AK and HI) to the facilities of Turtle Mountain Manufacturing Company near Belcourt, ND, under a continuing contract(s) with Turtle Mountain Manufacturing Company.

MC 150474 (Sub-1F), filed June 19, 1980. Applicant: CONSOLDIATED CARGO CARRIERS, INC., Box 2764, 650 Rosewood Drive, Columbia, SC 29202. Representative: Harry S. Dent, 1919 Gadsden St., P.O. Box 528, Columbia, SC 29202. Contract carrier, transporting (1) *aluminum, iron, and steel coils and sheets, studs, and furring channels,* and (2) *machinery, equipment, and materials,* used in the manufacture of aluminum iron and steel articles (except commodities in bulk, in tank vehicles), between the facilities of Consolidated Systems, Inc., in Richland County (Columbia), SC, on the one hand, and, on the other, points in WI, IA, KS, MO, OK, TX, AR, LA, MS, TN, KY, OH, IN, IL, MI, AL, NY, PA, WV, VA, NC, GA, FL, MD, DE, NJ, CT, RI, NH, MA, VT, SC, ME, and DC, under a continuing contract(s) with Consolidated Systems, Inc., of Columbia, SC.

MC 151015 (Sub-1F), filed June 23, 1980. Applicant: DON SWART TRUCKING, INC., Box 49, Route 2, Wellsburg, WV 26070. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. *Contract carrier,* transporting *cement,* from Bessemer, PA to points in Jefferson and Belmont Counties, OH, under a continuing contract(s) with Belot Concrete Industries, Inc.

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Decided: July 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 2229 (Sub-239F), filed April 28, 1980. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). Transporting (1) *plastic pipe and materials* used in the manufacturing of plastic pipe, and (2) *power pumps, power pump parts and assemblies,* from points in Caddo Parish, LA to points in the U.S. (except AK, HI and LA). Hearing site: Shreveport, LA or Dallas, TX.

MC 19778 (Sub-110F), filed April 29, 1980. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, 516 West Jackson Boulevard, Suite 508, Chicago, IL 60606. Representative: Robert F. Munsell (same address as applicant). Transporting *general commodities* (except Classes A and B explosives) between Minneapolis, MN on the one hand, and, on the other, points in MN, the Upper Peninsula of MI, ND, SD, and those in WI lying north of Interstate Hwy 90 and west of U.S. Hwy 51 including all points on named highways, restricted to traffic having a prior or subsequent movement by rail. (Hearing site: St. Paul, MN.)

MC 33919 (Sub-18F), filed June 9, 1980. Applicant: FAIRCHILD GENERAL FREIGHT, INC., P.O. Box 9967, Yakima, WA 98909. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. Transporting (1) *Containers, container closures, and container components, and* (2) *equipment, materials, and supplies* used in the manufacture, sale and distribution of (1) above between points in AZ, CA, NV, OR, ID, UT, and WA. (Hearing site: Portland, OR, or Seattle WA.)

MC 48958 (Sub-213F), filed May 2, 1980. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). Transporting *meats, meat products, and meat by products, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of The Rath Packing Company, at or near Columbus Junction and Waterloo, IA, to points in AZ, CA, CO, KS, MO, NV, NM, OK, and TX. (Hearing site: Omaha, NE, or Chicago, IL.)

MC 52579 (Sub-206F), filed April 29, 1980. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *wearing apparel,* in *cartons and on hangers,* between points in NC and SC on the one hand, and, on the other, Los Angeles, CA, Chicago, IL, and Dallas, TX and points in NJ, NY and DC. Hearing site: Washington, D.C. or New York, N.Y.

MC 52709 (Sub-390F), filed May 2, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *building, complete on in sections, and equipment, materials, and supplies* used in the manufacture, distribution, and erection of buildings, between the facilities of American Solartron Corp., at or near Centralia, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: St. Louis, MO or Denver, CO.)

MC 55889 (Sub-60F), filed April 30, 1980. Applicant: AAA COOPER TRANSPORTATION, Post Office Box 6827, Dothan, AL 36302. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Over regular routes transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment): (1) between Birmingham, AL and Shreveport, LA, over Interstate Hwy 20; (2) between Montgomery, AL and junction U.S. Hwy 80 and Interstate Hwy 20, over U.S. Hwy 80; (3) between Mobile, AL and Jackson, MS: From Mobile over U.S. Hwy 98 to junction U.S. Hwy 49, then over U.S. Hwy 49 to Jackson, and return over the same route, serving Jackson, MS for purpose of joinder only; (4) between Huntsville, AL and Monroe, LA: From Huntsville over Alt. U.S. Hwy 72 to Decatur, AL, then over AL Hwy 24 to junction MS Hwy 23, then over MS Hwy 23 to Tremont, MS, then over U.S. Hwy 78 to Tupelo, MS, then over MS Hwy 6 to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 165, then over U.S. Hwy 165 to Monroe, LA, serving Decatur, AL as an intermediate point and serving Athens and Hartselle, AL as off-route points: (5) between Frisco City, AL and Mansfield, LA, over U.S. Hwy 84; (6) between junction U.S. Hwy 84 and LA Hwy 28 and Leesville, LA, over LA Hwy 28; (7) between Bastrop, LA and junction U.S. Hwy 165 and Interstate Hwy 10, over U.S. Hwy 165; (8) between Mobile, AL and Lake Charles, LA, over Interstate Hwy 10 and U.S. Hwy 90; (9) between Baton Rouge, LA and junction Interstate Hwys. 12 and 59, over Interstate Hwy 12; (10) between [illegible]eville and Bernice, LA, over U.S. Hw[illegible] 67; (11) between Lake Charles and [illegible]hreveport, LA, over U.S. Hwy 171; (12) between Raceland and Vivian, LA, over LA Hwy 1; (13) between Bogalusa and New Roads, LA, over LA Hwy 10; (14) between New Orleans and Bogalusa, LA: From New Orleans over Interstate Hwy 10 to junction LA Hwy 41, then over LA Hwy 41 to junction LA Hwy 21, then over LA Hwy 21 to Bogalusa, and return over the same routes; (15) between Ragley and Hammond, LA, over U.S. Hwy 190; (16) between Monroe and Clayton, LA, over LA Hwy 15; (17) between Vivian and Ferriday, LA: From Vivian over LA Hwy 2 to junction U.S. Hwy 65, then over U.S. Hwy 65 to Ferriday and return over the same routes. Serving in connection with routes (1) through (17) above all intermediate points in LA and all other points in LA as off-route points, with service between New Orleans, Baton Rouge, and Lake Charles, LA, on the one hand, and, on the other, points in LA restricted against the transportation of shipments having an immediately prior or subsequent movement by water.

Note.—Applicant intends to tack the routes sought with each other and with applicant's existing regular and irregular routes at common points. (Hearing sites: Baton Rouge, LA and Atlanta, GA.)

MC 78228 (Sub-170F), filed June 9, 1980. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting *Alloys, ores and metals,* between Baltimore, MD, on the one hand, and, on the other, points in the United States except AK and HI). (Hearing site: Washington, DC or Pittsburgh, PA.)

MC 78228 (Sub-171F), filed June 9, 1980. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting *Lime and limestone, lime and limestone products, magnesite and magnesite products, and refractories* (except in bulk in tank vehicles) from points in Seneca County, OH, and Caldwell County, KY, to points in the United States (except AK and HI). (Hearing site: Washington, DC or Pittsburgh, PA.)

MC 82079 (Sub-86F), filed April 22, 1980. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Ave. SW., Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *foodstuffs,* (except in bulk) in mechanically refrigerated vehicles from the facilities of Welch Foods, Inc. at or

near Lawton, MI. to points in IN, IL, and MI. (Hearing site: Lansing, MI or Chicago, IL.)

Note.—Dual operations may be involved.

MC 83539 (Sub-537F), filed April 21, 1980. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P O. Box 270535, Dallas, TX 75227. Representative: Mr. Thomas E. James (same address as applicant). Transporting (1) *aircraft, aircraft engines and aircraft assemblies;* (2) *aerospace craft;* (3) *equipment and materials* used in the maintenance, servicing, operation and manufacture of aircraft and aerospace craft; and (4) *parts* of (1), (2) and (3) above, (except commodities in bulk in tank vehicles), between points in the U.S. (including AK but excluding HI). Hearing site: Los Angeles, CA; or Dallas, TX.)

MC 105269 (Sub-87F), filed June 9, 1980. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., P.O. Box 986, Kalamazoo. MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting (1) *Paper and paper products and* (2) *equipment, materials and supplies used in the distribution, manufacture, and sale of paper and paper products* between points in IL, IN, IA, KY, MI, MN, MO, OH, PA, WV, and WI. Restricted (a) against commodities in bulk and (b) to traffic originating at or destined to the facilities of Simpson Paper Company. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 105369 (Sub-14F), filed June 9, 1980. Applicant: N.Y. & N.J. FREIGHTWAYS, INC., 47-10 Grand Avenue, Maspeth, NY 11378. Representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, NY 11375. Transporting *general commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in CT, MA, NJ, NY, and RI.

Note.—Applicant holds extensive duplicating authority in its Sub-Nos. 10, 11 and 12 Certificates, which duplicating authority will be surrendered upon approval of this application.

MC 106398 (Sub-1068F), filed April 21, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same as applicant). Transporting: *Aluminum, aluminum products, equipment, materials and supplies used in the manufacture of aluminum and aluminum products* (except commodities in bulk) between: the facilities of Eastalco in Frederick County, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 106398 (Sub-1069F), filed April 21, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting: *metal buildings, metal prefabricated buildings, metal grain bins, complete* or in sections *component parts, materials, supplies and fixtures,* and when shipped with such buildings, *accesories* used in the erection, construction and completion thereof, from: The facilities of Butler Manufacturing Company at Kansas City, MO to: points in OK, TX, ND, CO, WY, MT, ID, UT, WA and OR.

MC 106398 (Sub-1070F), filed April 21, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting: *fabricated structural steel; steel pipe; pipe fittings,* and *fabricated pipe, paper pulp and sawmill machinery parts,* between the facilities of Arkansas-Oregon Pneumatics at Crossett, AR to points in the U.S. (except AK and HI) on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 106398 (Sub-1071F), filed April 21, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting: *lumber and lumber mill products,* from: points in the U.S. (except AK and HI) to: the facilities of Cor Tec, Inc., at Washington Court House, OH.

MC 106398 (Sub-1072F), filed April 21, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting: *lumber, piling, poles, posts, crossties, and cross arms,* from the facilities of Koppers Company, Inc. at or near Florence, SC to those points in the U.S. in and east of MS, TN, KY, IL, and MI. (Hearing site: Columbia, SC.)

MC 107478 (Sub-68F), filed April 30, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Drive, Post Office Box 2006, High Point, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting: *iron and steel articles* from Bagdad, Brackenridge, and West Leechburg, PA and New Castle, IN to points in NC and SC.

MC 107478 (Sub-69F), filed April 30, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Drive, P.O. Box 2006, High Point, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting: (1) *paper and paper products and woodpulp* from the facilities of Weyerhaeuser Company at or near Trinity, MS to points in the U.S., (except AK and HI) and (2) *materials, equipment and supplies* used in the manufacturing and distribution of the commodities in (1) above, (except in bulk) in the reverse direction. (Hearing site: Jackson, MS or Washington, DC.)

MC 107678 (Sub-80F), filed April 21, 1980. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, 14942 Talcott Avenue, Houston, TX 77915. Representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, CA 94104. Transporting (1) *grain milling and processing machinery,* (2) *materials, equipment and supplies* used in the manufacture of commodities in (1) above between the facilities of Ferrell-Ross, Inc., at or near Amarillo, TX, on the one hand, and, on the other, points in the U.S., (including AK, but excluding HI). (Hearing site: Amarillo, TX.)

MC 110678 (Sub-41F), filed May 1, 1980. Applicant: ARGO TRUCKING COMPANY, INC., P.O. Box 955, Elberton, GA 30635. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting: *concrete building slabs,* from Elberton, GA, to points in KY, IN, IL, OH, and MI.

MC 110678 (Sub-42F), filed May 1, 1980. Applicant: ARGO TRUCKING, INC., P.O. Box 955, Elberton, GA 30635. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *scrap paper,* from points in AL, AR, DE, FL, IL, IN, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, WV and DC, to the facilities of Georgia Kraft Corp. at Macon, GA.

MC 111729 (Sub-764F), filed April 22, 1980. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same address as applicant). Transporting *books,* restricted against the transportation of books weighing in the aggragate more than 350 pounds, (1) from Seattle, WA to points in OR and WA; and (2) from Portland, or to points in OR. (Hearing site: Washington, DC or Seattle, WA.)

Note.—Dual operations may be involved.

MC 113388 (Sub-131F), filed December 31, 1979, previously noticed in FR issue of March 25, 1980. Applicant: LESTER C. NEWTON TRUCKING CO., a corporation, P.O. Box 618, Seaford, DE 19973. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth Street, NW, Washington, DC 20005. Transporting (1) *such merchandise* as is dealt in by chain

grocery stores and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution thereof (except commodities in bulk), between Omaha, NE, and those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of Campbell Soup Company, its affiliates and subsidiaries.

Note.—This republication adds the facilities of Campbell Soup Company's affiliates and subsidiaries.

MC 113459 (Sub-138F), filed April 28, 1980. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73143. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237. Transporting *excavating tractors, and parts and equipment trailers, excavating and construction parts,* from Perry, OK to points in the U.S. (including AK but excluding HI and OK). (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 113459 (Sub-139F), filed May 2, 1980. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73143. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237. Transporting (1) *Commodities* the transportation of which, because of size or weight, require the use of special equipment; (2) *Self-propelled articles* weighing 15,000 pounds or more; and (3) *equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, except in connection with main or trunk pipelines, between points in AZ and UT, on the one hand, and, on the other, points in CO and WY. (Hearing site: Denver, CO.)

MC 118089 (Sub-42F), filed June 4, 1980. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Avenue C, P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting *Meats, meat products, meat by-products* and *articles distributed by meat-packing houses* as described in Sections A & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Freezer Services, Inc., at or near Amarillo, TX, to points in AR, LA, MS, TN, NC, SC, AL, GA, FL, TX, AZ, CA, OR, WA, ID, NV, CO, NM, and UT. (Hearing site: Amarillo, TX.)

Note.—Dual operations may be involved.

MC 118159 (Sub-372F), filed April 22, 1980. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., 3181 Bankhead Hwy., Atlanta, GA 30318. Representative: Warren L. Troupe, P.O. Box 2298, Green Bay, WI 54306. Transporting *general commodities,* (except Classes A and B explosives) when moving on bills of lading of freight forwarders from Buffalo and Tonawanda, NY and points in MI, IL, OH, and IN to points in GA. (Hearing site: New York, NY.)

MC 118959 (Sub-249F), filed March 24, 1980. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO. 63701. Representative: Jack Gleason, 130 S. Frederick, St., Cape Girardeau, MO. 63701. Transporting *Paper, Paper Products,* and *Cellulose Products* between the facilities utilized by the Procter & Gamble Paper Products Company in MO, on the one hand, and, on the other, points in the United States (except AK and HI.). (Hearing site: Chicago, IL.)

MC 119689 (Sub-30F), filed May 2, 1980. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad Street, Pittsburgh, PA 15222. Representative: Robert T. Hefferin (same address as applicant). Transporting (1) (a) *chemical* and (b) *plastics* (except those in (a)) and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Northern Petrochemicals Company at Chicago, Lemont, Mapleton, Norris and Streamwood, IL, on the one hand, and, on the other, points in PA. (Hearing site: Pittsburgh, PA, or Washington, D.C.)

MC 119789 (Sub-702F), filed April 30, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Transporting *Plastic Fence Posts* from Grand Prairie, TX to points in the U.S. (except AK and HI). (Hearing site: Dallas, TX.)

MC 119789 (Sub-703F), filed April 30, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. Transporting *such commodities* as are dealt in or used by retail department stores between points in the US (except AK and HI), restricted to traffic originating at or destined to the facilities of Bealls Department Stores. (Hearing site: Dallas, TX.)

MC 119789 (Sub-704F), filed April 30, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. Transporting *canned fruit preserves, fruit jellies, and fruit juices* from New Hyde Park, NY to points in AL, FL, GA, IL, IN, NC, and SC.

MC 119988 (Sub-246F), filed April 22, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. Transporting (a) *plastics, and plastic articles,* and (b) *materials, equipment and supplies* used in the manufacture and distribution of (a) between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121568 (Sub-37F), filed June 9, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37211. Representative: James G. Caldwell (same as applicant). Transporting (1) *Plastic resin and plastic materials,* and (2) *supplies, equipment, and materials used in their manufacture and distribution* (except in bulk), between Halletsville, Shiner, and Yoakum, TX, on the one hand, and, on the other, points in IN, MI, GA, IA, NY, MN, TN, NC, IL, OH, KY, MO, AR, LA, MS, and WV. (Hearing site: Nashville, TN, or Dallas, TX.)

Note.—Applicant intends to tack and interline at Memphis and Nashville, TN, and other authorized points. Common control may be involved.

MC 121568 (Sub-38F), filed June 9, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37211. Representative: James G. Caldwell (same as applicant). Transporting (1) *Film,* and (2) *materials, supplies and equipment used in its manufacture and distribution* (except in bulk), between the facilities of E.C.S., Inc., at or near Gallaway and Whiteville, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Nashville or Memphis, TN.)

Note.—Applicant intends to tack and interline at Memphis and Nashville, TN, and other authorized points. Common control may be involved.

MC 124078 (Sub-1024F), filed April 28, 1980. Applicant: SCHWERMAN TRUCKING CO. a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201.

Transporting *calcium chloride,* in bulk, from Germantown, WI to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD and TN.

MC 124679 (Sub-123F), filed June 9, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same as applicant). Transporting *foodstuffs* from points in MD, MA, NJ, NY, and PA, to points in KS, NE, LA, ND, OK, SD, TN, and TX.

Note.—Dual operations may be involved.

MC 126679 (Sub-21F), filed April 21, 1980. Applicant: DENNIS TRUCK LINES, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting (1) *concrete pipe manholes,* from the facilities utilized by (a) Hermitage Concrete Pipe Co., at or near Knoxville, TN and (b) Knoxville Concrete Pipe and Products Company at or near Knoxville, TN to points in AL, FL, GA, DE, MD, MS, NC, SC, TN, and VA, and (2) *materials, equipment, and supplies* used in the manufacture of concrete pipe and manholes in the reverse direction.

MC 129908 (Sub-45F), filed April 28, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th St., Oklahoma City, OK 73107. Representative: John S. Odell (same address as applicant). Transporting (a) *foodstuffs* (except in bulk) and (b) *materials, equipment and supplies* used in the manufacture of (a) between the facilities of Moody Dunbar, Inc., at Limestone, TN and points in the U.S. (except AK and HI).

MC 133189 (Sub-38F), filed May 1, 1980. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. Transporting: *Lumber,* (1) from Whitewood, SD, to points in IA, MN, WI, MI, ND; and (2) from points in AR, OK, TX, LA, and MS to Whitewood, SD. (Hearing site: St. Paul, MN or Rapid City, SD.)

MC 138328 (Sub-119F), filed June 9, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 & Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as applicant). Transporting (1) *Metal doors,* and (2) *metal and wood door frames,* and *parts, equipment, and materials,* used in installation of the commodities named in (1) above, from the facilities of The Ceco Corporation at or near Milan, TN, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, SD, and WI, restricted against traffic destined to the facilities of Edward Hines Lumber Company. (Hearing site: Omaha, NE, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 138469 (Sub-237F), filed June 9, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. Transporting (1) *Outdoor recreational equipment,* (2) *heating and air conditioning equipment* (except that which because of size or weight requires special equipment), and (3) *equipment, materials and supplies used in the production and distribution of the commodities named in (1) and (2) above,* (except in bulk) between the facilities of Coleman Company, Inc.) at (a) New Braunfels, TX, and (b) Wichita, KS, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic originating at or destined to the named facilities. (Hearing site: Kansas City, MO, or Oklahoma City, OK.)

MC 138469 (Sub-238F), filed June 9, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park ridge, IL 60068. Transporting (1) *New household furniture, pollows, sheets, pillow cases, and bedspreads,* from the facilities of Oklahoma Furniture Manufacturing Company, at or near Guthrie, OK, to points in AR, CT, DE, FL, ID, LA, ME, MA, MS, MT, NH, ND, RI, SC, SD, TN, TX, VT, and WY, and (2) *Materials and supplies used in the production, sale, and distribution of the commodities in (1) above, and new household furniture and furniture parts,* (except comodities in bulk), from points in the U.S. (except AL, AK, AR, HI, IL, IN, GA, KY, MS, MO, NC, OF, PA, SC, and TN) to the facilities of Oklahoma Furniture Manufacturing Company, at or near Guthrie, OK, restricted in (1) and (2) above to traffic originating at or destined to the named facilities. (Hearing site: Dallas, TX: Kansas City, MO.)

MC 138469 (Sub-239F), filed June 9, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73147. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park ridge, IL 60068. Transporting *Frozen Foods* from points in CA, MI, and WI to points in AR, GA, IL, MD, MA, MN, MO, OH, OK, TX, and DC, restricted to traffic originating at or destined to the facilities of ITT Continental Baking Company. (Hearing site: New York, NY; Washington, DC.)

MC 138469 (Sub-240F), filed June 9, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park ridge, IL 60068. Transporting *Foodstuffs,* (except in bulk), from (1) Albany, GA, to points in IL, MD, MI, MO, NC, NJ, and OH, and (2) Elizabeth, NJ, to points in IL, restricted in (1) and (2) above to traffic originating at the facilities of Mars, Inc., and destined to the indicated destinations. (Hearing site: Atlanta, GA; Miami, FL.)

MC 140148 (Sub-3F), filed June 9, 1980. Applicant: ASCOT TRUCKING CORP, 453 North May Streets, Chicago, IL 60622. Representative: Anthony E. Young, 29 South LaSalle Street, Chicago, IL 60603. Transporting *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment or handling) between Chicago, IL, on the one hand, and, on the other, points in WI, MI, IL, IN, and OH. (Hearing site: Chicago, IL.)

MC 140389 (Sub-2F), filed June 9, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. Transporting *carpet padding* from Shelbyville, TN, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140709 (Sub-16F), filed May 16, 1980. Applicant: FRANKHAUSER BROS. INC., 139 Hillside, El Dorado, KS 67042. Representative: Clyde N. Christey, KS Credit Union Bldg, 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *liquid fertilizer solutions,* from the facilities of Chevron Chemical Co. at or near Friend, KS, to points in CO, NE, OK, TX, and NM. (Hearing site: Kansas City, MO.)

MC 140829 (Sub-365F), filed April 28, 1980. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King (same as applicant). Transporting *computing machine paper* from the facilities of Texas Stock Tab at Dallas, TX to those points in the U.S. in and east of MT, WY, CO and NM, restricted to traffic originating at named origin and destined to the indicated destination. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved in this proceeding.

MC 141889 (Sub-9F), filed May 30, 1980. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting *paper, paper products, plastic film, foil, cellulose products, and lignin pitch (except in bulk)* from Neenah, Menasha, Rothschild, and Wausau, WI, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, restricted to traffic originating at the facilities of American Can Company. (Hearing site: Madison or Neenah, WI.)

MC 142059 (Sub-133F), filed June 9, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley, 1830 Mound Rd., Joliet, IL 60436. Transporting *General Commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk in tank vehicles), between points in the United States (except AK and HI), restricted to traffic originating at or destined to the facilities of Union Camp Corporation. (Hearing site: New York, NY, or Washington, DC.)

MC 142368 (Sub-31F), filed April 21, 1980. Applicant: DANNY HERMAN TRUCKING, INC., 1415 East Ninth Ave., Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *uncooked processed beef,* from El Paso, TX, to points in MN, IA, AR, MO, KS, SD, NM, CO, WY, ID, MT, NE, and OR.

MC 142559 (Sub-154F), filed April 21, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 E. Broad Street, Columbus, OH 43215. Transporting (1) *glazed clay tiles,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) between Lawrenceburg, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Dual operations may be involved.

MC 142559 (Sub-155F), filed April 29, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: David A. Turano, 100 E. Broad Street, Columbus, OH 43215. Transporting *such commodities as are dealt in or used by manufacturers and distributors of building materials* (except commodities in bulk and commodities which require special equipment) between Cleveland and Kent, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 143059 (Sub-121F), filed May 1, 1980. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th and Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). Transporting *plastic articles, and materials, supplies and accessories* used in the manufacture and installation of plastic articles (except in bulk, in tank vehicles) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities utilized by IMCOA.

MC 143708 (Sub-4F), filed April 30, 1980. Applicant: DUNES TRANSPORT, INC., 3965 North Meridian Street, Indianapolis, IN 46208. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting *cornstarch* from Lake Station, IN to points in the Lower Peninsula of Michigan.

MC 143739 (Sub-42F), filed June 9, 1980. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *meats, meat products, meat byproducts,* and *articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 207 and 766 (except hides and commodities in bulk), from points in IL, IN, IA, NE, and OK to Albert Lea, MN, restricted to traffic destined to Albert Lea, MN. (Hearing site: St. Paul, MN).

MC-144688 (Sub-46F), filed June 9, 1980. Applicant: READY TRUCKING, INC., 2717 Campbell Blvd., Ellenwood, GA 30049. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *Such commodities as are dealt in by grocery, hardware ad drug stores;* (2) *cleaning and building maintenance materials and supplies;* (3) *swimming pool, spa, and hot tub products;* (4) *chemicals;* and (5) *materials, equipment, and supplies used in the manufacture, sale and distribution of commodities in parts (1) through (4) above,* Between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Restricted (a) against commodities in bulk and (b) to traffic originatifng at or destined to the facilities of Purex Corporation and its divisions and subsidiaries. (Hearing site: Atlanta, GA.)

MC 144858 (Sub-36F), filed June 9, 191980. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102 Transporting *wine* (except in bulk), from Westfield, NY, to points in the United States (except AK and HI). (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 146078 (Sub-26F), filed April 29, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting (a) *glass containers* and (b) *such commodities* used in the manufacture and distribution of (a), between the facilities of Midland Glass Co., Inc. at Warner Robbins, GA; Cliffwood, NJ; Terre Haute, IN; Shakopee, MN; and Henryetta, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 146078 (Sub-27F), filed April 29, 1980. Applicant: CAL-ARK, INC., P.O. Box 610, 854 Moline, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting *gas or electrical appliances and parts, and materials, supplies and equipment* used in the distribution or repair of gas or electrical appliances; from the facilities of Whirlpool Corporation at Evansville, IN, to points in AR, CO, KS, LA, MO, TN, and TX.

MC 149199 (Sub-2F), filed April 28, 1980. Applicant: O. R. MILLER, d.b.a. FRONTIER EXPRESS, 11720 Ashford Drive, Yukon, OK 73099. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 24, El Reno, OK 73036. Over regular routes, transporting: "*general commodities,* "(except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Oklahoma City, OK and Newkirk, OK, over U.S. Hwy 77 serving the intermediate points of Tonkawa, and Ponca City, OK; (2) Between Oklahoma City, OK and Braman, OK, from Oklahoma City over U.S. Hwy 77 to junction of U.S. Hwy 177, then over U.S. Hwy 177 to Braman and return over the same route; serving the intermediate points of Tonkawa, and Blackwell, OK; (3) Between Blackwell, OK and the Junction of U.S. Hwy 77 and OK Hwy 11, over OK Hwy 11 serving all intermediate points; and (4) Between Oklahoma City, OK and the Junction of U.S. Hwy 60 and U.S. Hwy 177, from Oklahoma City over Interstate Hwy 35

to junction of U.S. Hwy 60, then over U.S. Hwy 60 to the junction of U.S. Hwy 60 and U.S. Hwy 177, and return over the same route; serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Oklahoma City, OK.)

MC 149228 (Sub-2F), filed April 21, 1980. Applicant: MARINE TRANSPORT COMPANY, a corporation, P.O. Box 2142, 330 Shipyard Blvd., Wilmington, NC 28402. Attorney: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *general commodities (except those of unusual value, commodities in bulk, classes A and B explosives, commodities requiring special equipment and household goods as defined by the Commission) restricted to traffic having an immediately prior or subsequent movement by water* between the ports at Norfolk, VA, Morehead City and Wilmington, NC, Charleston, SC, and Savannah, GA, on the one hand and, on the other, points in AL, GA, IN, KY, NC, OH, SC, TN, VA and WV. (Hearing site: Wilmington, NC.)

MC 150138 (Sub-1F), filed April 22, 1980. Applicant: HERSHALL A. ATKINSON d.b.a. APOLLO AIR FREIGHT DELIVERY SERVICE, 1027 Aldine Mail Rt., Houston, TX 77037. Representative: Hershell A. Atkinson (same address as applicant). Transporting *general commodities,* (except commodities in bulk, in tank vehicles, household goods as defined by the Commission and of unusual value, and Classes A and B explosives), restricted to traffic having an immediate prior or subsequent movement by air between Houston, TX, on the one hand, and, on the other, Alto, Bloomington, Bronson, Crockett, Cuero, Diboll, Edna, El Campo, Fannin, Flatonia, Ganado, Grapeland, Groveton, Hallettsville, Huntington, Jasper, Lufkin, La Grange, Melrose, Nacogdoches, Palacios, Pineland, Point Comfort, Port Levaca, Port O'Conner, San Augustine, Schulenburg, Seadrift, Shiner, Victoria, Waelder, Weimar, Yoakum, and Houston, TX.

MC 150188 (Sub-1F), filed June 9, 1980. Applicant: HICKS AND SHARP TRUCK LEASING, INC., Salmon Lane, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Transporting (1) *materials and supplies used in the manufacture of chalkboards, bulletin boards, display cases, and trophy cases* from points in IN, OH, IL, MI, MO, AR, and MS to the facilities of Claridge Products and Equipment, Inc., at Harrison, AR; (2) *fencing and fencing products, and materials and supplies used in their manufacture,* between the facilities of Anchor Post Products, Inc., at Harrison, AR, on the one hand, and, on the other, points in IN, IL, OH, TN, KY, KS, MD, MO, MI, GA, AL and FL and (3) *lumber and lumber products* (a) from the facilities of White Wood Treating, Inc., at or near St. Joe, AR, to points in IN, OH, IL, MI, MO, AR, MS, LA, TX, and GA and (b) from the facilities of F & H Lumber Company at or near Jasper, AR, to points in IL, IN, OH, MO, MS, LA, and TX. (Hearing site: Harrison or Little Rock, AR.)

MC 150208 (Sub-1F), filed April 21, 1980. Applicant: S. & S. BROKERS & DISTRIBUTORS LTD., 236 Manora Crescent NE., Calgary, Alberta T2A 4S5 Canada. Representative: John A. Anderson, Suite 1440, 200 S.W. Market St., Portland, OR 97201. In foreign commerce only, transporting *inedible offal,* from the ports of entry on the international boundary line between the U.S. and Canada in MT, ID and WA, to the facilities of Protein Products, Inc., at Newberg, OR.

MC 150578 (Sub-2F), filed June 9, 1980. Applicant: STEVENS TRANSPORT, a corporation, 2944 Motley Drive, Mesquite, TX 75150. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. Transporting *frozen bakery goods,* from San Antonio, TX, to Phoenix, AZ, Atlanta, GA, Birmingham and Montgomery, AL, Denver, CO, Des Moines, IA, Kansas City, MO, Greenville, SC Memphis, TN, Millard, NE, Metairie, LA, Tampa and Jacksonville, FL, Springfield, IL, Raleigh and Hickory, NC, and points in WV, VA, KY, and CA. (Hearing site: Dallas, TX.)

MC 150688F, filed April 28, 1980. Applicant: COLONIAL TRUCKING CO., INC., Chandler Ave., Pittsfield, ME 04967. Representative: John G. Feehan, 178 Middle St., Portland, ME 04112. Transporting *pre-fabricated log cabins* from Bangor, ME to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of Northern Products Log Homes, Inc. at Bangor, ME.

MC 150719F, filed May 1, 1980. Applicant: EMPIRE FLOAT & CRANE SERVICE, a division of KINGMA MOVERS & CONTRACTORS, LTD., R.R. No. 3, Welland, Ontario, Canada. Representative: Mel P. Booker, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting in foreign commerce only (a) *commodities,* the transportation of which because of size or weight, require the use of special equipment or special handling, and (b) *contractors' materials and supplies* (except those in (a)) between ports of entry on the international boundary line between the U.S. and Canada on the Niagara River, on the one hand, and, on the other, points in MI, VT, NH, NY, MA, CT, RI, NJ, PA, DE, MD, IL, VA, WV, KY, OH, IN and DC.

MC 150928F, filed May 22, 1980. Applicant: HUSTON-KOLLAR MOVING & STORAGE, INC., 1122 E. Midlothian Blvd., Youngstown, OH 44502. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Lordstown, OH, on the one hand, and, on the other, points in Ohio and those in Erie, Crawford, Mercer, Lawrence, Beaver, and Venango Counties, PA, restricted to traffic having a prior or subsequent movement by rail. (Hearing site: Youngstown, OH.)

MC 150969F, filed June 5, 1980. Applicant: GRAND STREET WAREHOUSE, INC., 57 Grand Street, Moonachie, NJ 07074. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *Corn Oil, Vegetable Oil, Salad Oil,* and *Vegetable Shortening,* from Carlstadt, NJ, and Stuttgart, AR, to points in NY, CT, MA, NH, VT, RI, ME, PA, OH, IL, KY, NC, SC, VA, WV, AR, IN, FL, GA, MD, WI, MI, and DC; and (2) *Glass Bottles,* from those points in the US in and east of MN, IA, MO, AR, and TX to Carlstadt, NJ, and Stuttgart, AR. (Hearing site: New York, NY, or Washington, DC.)

Note.—Common control may be involved.

MC 150989 (Sub-1F), filed June 9, 1980. Applicant: DOUG'S DELIVERY SERVICE, INC., 99 University Ave., S.E., Atlanta, GA 30315. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting *General commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment) from Atlanta, GA, to points in GA, AL, FL, and TN. (Hearing site: Atlanta, GA.)

MC 150999F, filed June 6, 1980. Applicant: GENE F. LACAEYSE, d.b.a. G. F. Lacaeyse Transport, R.F.D. Box 110 Montezuma, IA 50171. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *Meat, meat products.* and *meat by-products,* and *articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Tama Meat Packing

Corporation, at or near Tama, IA, to points in CA and CO. (Hearing site: Des Moines, IA.)

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Decided: July 25, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 908 (Sub-17F), filed June 23, 1980. Applicant: CONSOLIDATED CARTAGE COMPANY, INC., P.O. Box 171, Argo, IL 60501. Representative: Eugene L. Cohn, Room 2255, One North LaSalle St., Chicago, IL 60602. Transporting (1) *such commodities* as are dealt in by manufacturers and distributors of containers, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), (a) between the facilities of the Boise Cascade Corp., at West Chicago, IL, on the one hand, and, on the other hand, Cincinnati, OH, and points in IN, (b) between the facilities of the Boise Cascade Corp., at or near Champ, MO, on the one hand, and, on the other, Chicago, IL, Cincinnati, OH, and points in IN.

MC 2229 (Sub-243F), filed June 24, 1980. Applicant: RED BALL MOTOR FREIGNT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas City, MO, and the junction of CA Hwy 65 and Interstate Hwy 80 at or near Roseville, CA, from Kansas City over Interstate Hwy 70 to Denver, CO, then over Interstate Hwy 25 to junction interstate Hwy 80, then over Interstate Hwy 80 to Salt Lake City, UT (also from Denver, CO over Interstate Hwy 25 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 80N, then over Interstate Hwy 80N to Ogden, UT, then over Interstate Hwy 15 to Salt Lake City, UT), then over Interstate Hwy 80 to junction CA Hwy 65 at or near Roseville, CA and return over the same route, serving the intermediate and off-route points of Denver, CO, Clearfield, Ogden, Salt Lake City, and Tooele, UT, and Carson City and Reno, NV, and serving junction Interstate Hwy 80N and Interstate Hwy. 15 for the purpose of joinder only, restricted against the transportation of traffic (1) originating at or received in interline in the Kansas City, KS-MO commercial zone and destined to or interlined at Denver, CO and points in its commercial zone, and (2) originating at or is received in interline at Denver, CO, and points in its commercial zone, and destined to or interlined in the Kansas City, KS-MO, commercial zone NOTE: Applicant intends to tack this authority with its existing regular-route authority.

MC 22179 (Sub-26F), filed June 23, 1980. Applicant: FREEMAN TRUCK LINE, INC., 419 Jefferson Ave., Oxford, MS 38655. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Over regular routes transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Lake Village, AR, and Winona, MS over U.S. Hwy 82, serving all intermediate points; (2) between Memphis, TN, and New Orleans, LA; from Memphis over U.S. Hwy 61 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, serving all intermediate points in MS; (3) between Clarksdale, MS, and Red Bay, AL; from Clarksdale over MS Hwy 6 to Tupelo, MS, then over U.S. Hwy 78 to Tremond, MS, then over MS Hwy 23 to MS-AL state line, and then over AL Hwy 24 to Red Bay, and return over the same route, serving those intermediate points in MS on MS Hwy 6 between Clarksdale and Oxford, MS, including Oxford; (4) between Memphis, TN, and Tupelo, MS, over U.S. Hwy 78, serving all intermediate points between Memphis and Holly Springs, MS, including Holly Springs; (5) between Clarksdale and Rolling Fork, MS, over U.S. Hwy 61, serving all intermediate points; (6) between Kosciusko, MS, and the junction of MS Hwy 1 and 12 in Washington County, MS, over MS Hwy 12, serving all intermediate points; (7) between West Helena, AR, and Yazoo City, MS; from West Helena over U.S. Hwy 49 to Tutwiler, MS, then over U.S. Hwy 49 E to Yazoo City, and return over the same route, serving all intermediate points; (8) between Tutwiler and Yazoo City, MS, over U.S. Hwy 49 W. serving all intermediate points; (9) between Rosedale and Grenada, MS over MS Hwy 8, serving all intermediate points; (10) between Holly Springs, MS, and junction MS Hwy 4 and U.S. Hwy 61, over U.S. Hwy 4, serving all intermediate points; (11) between Jackson and Vicksburg, MS, over U.S. Hwy 80 and Interstate Hwy 20, serving all intermediate points; (12) between Greenwood and Oxford, MS, over MS Hwy 7, serving all intermediate points; (13) serving all points in Chicot and Phillips Counties, AR, and De Soto, Tunica, Coahoma, Bolivar, Washington, Issaquena, Warren, Sharkey, Humphreys, Sunflower, Yazoo, Hinds, Rankin, Holmes, Madison, Attala, Leflore, Carroll, Montgomery, Grenada, Tallahatchie, Quitman, Yalobusha, Panola, Tate, Lafayette, and Marshall Counties, MS, as off-route points in connection with carrier's otherwise authorized regular-route operations; and (14) between Jackson, MS, and New Orleans, LA; from Jackson over U.S. Hwy 51 and Interstate Hwy 55 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route serving Hazlehurst, MS as an intermediate point.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 26739 (Sub-110F), filed June 18, 1980. Applicant: ALFARM TRUCKLINES, a NV corporation, 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *lumber*, from points in AL, AR, LA, MS, and TX to points in IL.

MC 31389 (Sub-306F), filed June 19, 1980. Applicant: McLEAN TRUCKING CO., a corporation, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Wal-Mart Stores, Inc., at or near Palestine, TX, as an intermediate and off-route point in connection with applicant's otherwise authorized regular-route operation.

Note.—Dual operations may be involved.

MC 44128 (Sub-40F), filed June 19, 1980. Applicant: EPES TRANSPORT SYSTEM, INC., P.O. Box 24038, Richmond, VA 23224. Representative: Edward G. Villalon, 1032 Pennsylvania Blvd., Pennsylvania Ave. & 13th St., N.W., Washington, DC 20004. Transporting *tobacco, and materials and supplies* used in the production sale, and distribution of tobacco, between Ancram, NY, Spotswood, NJ, Louisville and Lexington, KY, Petersburg and Richmond, VA, and Wilson and Winston-Salem, NC, and Macon, GA.

MC 48958 (Sub-214F), filed June 19, 1980. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). Transporting *pipe and pipe fittings, lubricants, and*

adhesives, from Pueblo, CO, to points in AZ, CA, KS, NE, NM, OK, TX, UT, and WY.

MC 57778 (Sub-37F), filed June 23, 1980. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Avenue, Detroit, MI 48209. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Transporting *foodstuffs,* (except in bulk), from points in Peoria and Vermilion Counties, IL, to points in MI, MS, OH, and TN. (Hearing site: Detroit, MI.)

MC 61788 (Sub-40F), filed June 18, 1980. Applicant: GEORGIA-FLORIDA-ALABAMA TRANSPORTATION CO., a corporation, P.O. Box 2268, Dothan, AL 36301. Representative: Maurice F. Bishop, 601–09 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between the facilities of Monsanto Company at or near (a) Foley, AL, (b) Gonzalez and Pensacola, FL, on the one hand, and, on the other, points in GA, and (2) between the facilities of Monsanto Company at or near Gonzalez and Pensacola, FL, on the one hand, and, on the other, points in AL.

Note.—Applicant intends to tack the authority sought with present regular-route authority at common points.

MC 105006 (Sub-26F), filed June 23, 1980. Applicant: EDWARD W. CHADDERTON d.b.a. ED CHADDERTON TRUCKING, P.O. Box 687. Sharon, PA 16146. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *iron and steel articles, and materials, supplies and equipment* used in the manufacture, sale, and distribution of iron and steel articles, between Sharon, PA, and points in Mercer County, PA, on the one hand, and, on the other, points in MD, NJ, OH, and WV.

MC 106009 (Sub-13F), filed June 16, 1980. Applicant: CAUSTIC SODA TRANSPORTATION CO., a corporation, 792½ Haywood Road, Asheville, NC 28806. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W. Washington, DC 20004. Transporting (1) *acids and chemicals,* in bulk, in tank vehicles, between points in Haywood, McDowell, Henderson, Rutherford, Buncombe, Transylvania, Madison, and Yancey Counties, NC, on the one hand, and, on the other, points in VA, TN, KY, WV, AL, GA, and SC, and (2) *general commodities* (except classes A and B explosives and commodities requiring the use of special equipment), between points in the counties named in (1) above.

MC 107478 (Sub-73F), filed June 24, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting (1) *plastic pipe, pipe fittings, valves, hydrants and* (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except in bulk), between the facilities of Tridyn Industries, Inc., at Colfax, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 108119 (Sub-274F), filed June 23, 1980. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Transporting (1) *cranes and crane parts,* (2) *marine equipment, and,* (3) *materials and supplies* used in the manufacture of the commodities named in (1) and (2) above, between the facilities of Roberton and Schwartz, Inc., in Alameda County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at and destined to the named facilities.

MC 109818 (Sub-86F), filed June 18, 1980. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *nuts, bolts, screws, and washers,* and (2) *equipment, materials, and supplies* used in the manufacture, distribution, or sale of the commodities in (1) (except commodities in bulk), between points in the U.S. (except AK and HI).

MC 110988 (Sub-430F), filed June 20, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting *commodities in bulk,* between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic moving from, to, or between the facilities of J. M. Huber Corporation. (Hearing site: New York, NY.)

MC 110988 (Sub-431F) filed June 20, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting *chemicals,* in bulk, from the facilities of Franklin Chemical Industries, Inc., at Columbus, OH to points in IL, IN, MI, NY, and PA. (Hearing site: Cincinnati, OH.)

MC 112989 (Sub-128F), filed June 24, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99S, Eugene, OR 97405. Representative: John A. Anderson, Suite 1440, 200 Market Street, Portland, OR 97201. Transporting *diatomaceous earth, and equipment, materials and supplies* used in the manufacture and distribution of diatomaceous earth, between the facilities of Eagle-Picher Industries, Inc., in Storey and Pershing Counties, NV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Dual operations may be involved.

MC 113459 (Sub-140F), filed June 19, 1980. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73143. Representative: JAMES W. HIGHTOWER, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237. Transporting (1) structural *steel and steel towers,* (2) *parts and accessories* for the commodities in (1) above, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Riverside Industries, Inc., at (a) Tulsa, OK, and (b) Clearfield, UT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 113678 (Sub-883F), filed June 24, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *foodstuffs* (except in bulk), from Buffalo, NY, to points in AL, FL, GA, NC, OK, SC, TN, TX, VA, and WV. (Hearing site: Buffalo, NY.)

MC 113678 (Sub-884F), filed June 24, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner, (same address as applicant). Transporting *foodstuffs* (except in bulk), from Atlanta, GA to points in the U.S. (except AK, GA, and HI), restricted to traffic originating at the facilities of Alex Foods, Inc. (Hearing site: Buffalo, NY.)

MC 113678 (Sub-885F), filed June 24, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner, (same address as applicant). Transporting *such commodities* as are produced or dealt in by rehabilitative and training institutions (except commodities in bulk), from Denver, CO, to points in the U.S. (except AK, CO, and HI).

MC 117119 (Sub-826F), filed June 19, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative:

Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. Transporting *chemicals* (except in bulk, in tank vehicles), from points in MD to points in IL, CA, and OR. (Hearing site: New York, NY; Washington, DC.)

MC 117119 (Sub-827F), filed June 23, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728, Representative: L. M. McLean, (same address as applicant). Transporting *such commodities* as are dealt in by manufacturers of chemicals and plastics (except commodities in bulk), from Baton Rouge, Port Allen, and Plaquemine, LA, to points in CA, CO, ID, IL, IN, IA, KY, MI, MN, MO, MT, NV, OH, OR, UT, WA, WI, and WY.

MC 117119 (Sub-828F), filed June 23, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. Transporting *foodstuffs* (except in bulk), from the facilities of General Foods Corporation at Evansville, IN, to those points in the U.S. in and east of OH, KY, TN, and AL (except FL), restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 119789 (Sub-707F), filed June 23, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). Transporting *malt beverages,* in containers, from San Antonio, TX to points in ME, NH, VT, CT, MA, RI, NY, NJ, PA, MD, and DC.

MC 119789 (Sub-708F), filed June 23, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). Transporting *foodstuffs,* (except in bulk), (1) from the facilities of American Home Foods at or near Laporte, IN, to points in CA, OK, and TX, and (2) from the facilities of American Home Food at or near Vacaville, CA, to points in IL, IN, and PA.

MC 119988 (Sub-260F), filed June 23, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting *beverages and equipment and supplies* used in the distribution of beverages, between points in the U.S. (except AK and HI), on the one hand, and, on the other, points in AR.

MC 121658 (Sub-34F), filed June 20, 1980. Applicant: STEVE D. THOMPSON TRUCKING, INC., P.O. Drawer 149, Winnsboro, LA 71295. Representative: Robert L. McArty, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Oil City and Vivian, LA, as off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 123048 (Sub-485F), filed June 24, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021-21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty St., Madison, WI 53703. Transporting *aluminum articles,* from the facilities of Alumax of South Carolina, Inc., at Mount Holly, SC, to points in the U.S. (except AK and HI).

MC 126118 (Sub-248F), filed June 19, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *paper and paper products,* between points in MN, on the one hand, and, on the other, points in IA.

Note.—Dual operations may be involved.

MC 126118 (Sub-249F), filed June 24, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *such commodities,* as are dealt in or used by manufacturers and distributors of motorcycles and recreation vehicles, between points in the U.S. (except AK and HI), restricted (1) to traffic originating at or destined to the facilities used by Kawaski Motors U.S.A. (except traffic moving in foreign commerce), and (2) against traffic moving to or from Lincoln, NE, and points in its commercial zone.

Note.—Dual operations may be involved.

MC 126898 (Sub-13F), filed June 24, 1980. Applicant: BULLDOG HIWAY EXPRESS, a corporation, P.O. Box 506, Charleston, SC 29402. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211. Transporting *concrete building slabs,* from Brunswick, GA, to points in NC and SC.

MC 129908 (Sub-56F), filed June 23, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. Transporting (1) *machinery, machinery parts, bearings, oil seals, motor mounts, rubber products, environmental control equipment, and air conditioning, heating, and purifying systems,* and (2) *materials, equipment and supplies* used in the manufacture, sales, and distribution of the commodities in (1) above, and *such commodities* as are dealt in by industrial supply firms, (except commodities in bulk), between points in OK and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 133689 (Sub-348F), filed June 20, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *petroleum and petroleum products, automotive chemicals, and cleaning compounds, and equipment, materials, and supplies* used in the operation of automotive service centers, (except commodities in bulk), between the facilities of Valvoline Oil Company, a division of Ashland Oil Inc., at Willow Springs, IL, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI, and WY, restricted to traffic originating at or destined to the named facilities.

MC 138469 (Sub-245F), filed June 20, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73147. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by the Ralston Purina Company.

MC 138469 (Sub-246F), filed June 20, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL. 60068. Transporting *frozen foodstuffs,* from the facilities of United States Cold Storage at Dallas, TX, to points in AR, CO, LA, NM, and OK, restricted to traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX.)

MC 140768 (Sub-47F), filed June 23, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832 Two World Trade Center, New York, NY 10048.

Transporting (1) *insulation, and sound deadening and fireproofing materials,* and (2) *equipment, material and supplies* used in the manufacture and installation of the commodities in (1) above, (except in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by U.S. Mineral Products Co.

MC 142368 (Sub-32F), filed June 6, 1980. Applicant: DANNY HERMAN TRUCKING, INC., 1415 East Ninth Avenue, Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *truck and trailer parts, and accessories* for truck and trailer parts, from points in the U.S. (except AK and HI), to points in Los Angeles and San Bernardino Counties, CA. (Hearing Site: Los Angeles, CA.)

MC 145679 (Sub-16F), filed June 23, 1980. Applicant: A & A TRANSPORT, INC., P.O. Box 569, Palmer, MA 01069. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Transporting (1) *construction wall panels, fiberglass articles, plastic products, solar heating and cooling systems,* (2) *parts and accessories for solar heating and cooling equipment,* and (3) *materials, equipment, and supplies* used in the installation of construction wall panels, from the facilities of Kalwall Corp., at Manchester, NH, and Kalite Corp. at Bow, NH, to points in the U.S. (including AK, but excluding HI).

Note.—Dual operations may be involved.

MC 146149 (Sub-17F), filed June 20, 1980. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. Transporting *paper and paper products* (except commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of Scott Paper Company.

Note.—Dual operations may be involved.

MC 146319 (Sub-4F), filed June 23, 1980. Applicant: ELLIOTT LAKE FREIGHT LINES LIMITED, P.O. Box 70, Spragge, Ontario, Canada POR 1 KO. Representative: William J. Hirsch P.C., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. In foreign commerce only, transporting *uranium,* from the ports of entry on the International Boundary line between the U.S. and Canada located in the Upper Peninsula of MI to points in IL. Condition: The certificate issued in this proceeding shall be limited in point of time to a period expiring five years from its date of issue.

MC 146479 (Sub-11F), filed June 18, 1980. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, NY 10528. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103.Transporting (1) *such commodities* as are dealt in by manufacturers and distributors of automotive supplies, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S. (except AK and HI).

MC 146709 (Sub-3F), filed June 23, 1980. Applicant: BILLY M. EDMONDSON dba, EDMONDSON SWIFT MEAT TRANSPORT, Route 1, Georgetown, GA 31754. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting (1) *electrical lighting fixtures and equipment, and parts and accessories* for electrical lighting fixtures and equipment, from the facilities of Gibson-metalux Corporation at or near (a) Eufaula, AL, and (b) Americus, GA, to those points in the U.S. in and east of WI, IL, KY, TN, and AL, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except in bulk), from points in the U.S. (except AK and HI) to the facilities named in (1) above.

Note.—Dual operations may be involved.

MC 147348 (Sub-9F), filed June 23, 1980. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201. Transporting *malt liquor* (except in bulk), from the facilities of Pearl Brewery, at San Antonio, TX, to the facilities of Central Distributors, Inc., at Little Rock, AR.

Note.—Dual operations may be involved.

MC 148158 (Sub-9F), filed June 19, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, 17295 East Railroad Ave., City of Industry, CA 91749. Representative: Rorbert L. Cope, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities used by Streamline Shippers Association, Inc., at or near Los Angeles, CA, on the one hand, and, on the other, Phoenix, AZ, Atlanta, GA, Portland, OR, Memphis, TN, Dallas, El Paso, and Houston, TX, Salt Lake City, UT, and Seattle, WA.

Note.—Dual operations may be involved.

MC 150728 (Sub-1F), filed June 24, 1980. Applicant: TOM BILIC, d.b.a. VANCOUVER AIRPORTER, 1203 NE 75th, Vancouver, WA 98665. Representative: Philip G. Skofstad, 1525 NE Weidler, Portland, OR 97232. Over regular routes, transporting (1) *passengers and their baggage,* in the same vehicle with passengers, between Longview, WA, and Portland International Airport, OR, over Interstate Hwy 5 and connecting roadways, serving all intermediate points, and (2) *recovered baggage,* from Portland International Airport, OR, to points in Clark and Cowlitz Counties, WA.

MC 150949F, filed June 17, 1980. Applicant: NFI, INC., P.O. Box 664, Waxahachie, TX 75165. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting (1) *paper and paper products* (except in bulk), and (2) *materials and supplies* used in the manufacture, distribution and sale of the commodities in (1) above (except in bulk), between the facilities of Olinkraft, Inc., at West Monroe, LA, on the one hand, and, on the other, points in TX. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 151038F, filed June 24, 1980. Applicant: DER TRUCKING CO., INC., Box 4B, 1105 N. Main Street, Gainesville, FL 32601. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *mobile nuclear decontaminating systems and equipment,* between points in the U.S. (except AK and HI).

MC 151058F, filed June 18, 1980. Applicant: TRADEWIND ENTERPRISES, INC., P.O. Box 6611, Portland, OR 97228. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Transporting *radioactive isotopes and medical supplies,* from Portland International Airport, OR, and Sea-Tac International Airport, WA, to points in OR and WA, restricted to traffic having an immediately prior movement by air. Condition: To the extent any certificate issued in this proceeding authorized the transportation of radio active isotopes, it shall be limited in point of time to a period expiring five years from its date of issue.

MC 151088F, filed June 16, 1980. Applicant: MCGILLION & COMPANY LIMITED, 141 Healey road, Bolton,

Ontario, Canada LOP 1AO. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. In foreign commerce only, transporting (1) *iron and steel articles,* from the ports of entry on the international boundary line between the U.S. and Canada located in MI and NY, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture of iron and steel articles, in the reverse direction. Condition: The person or persons who apper to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP4-003

Decided: July 16, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 5227 (Sub-71F), filed July 1, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting (1) *grain dryers, spring tooth harrows, riding power mowers, combine trailers, industrial trailers, wood-burning stoves, pollution control equipment, and iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between points in Reno and McPherson Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 45656 (Sub-26F), filed July 1, 1980. Applicant: ANDERSON TRUCK LINE, INC., Hwy. 321 South, P.O. Box 1196, Lenoir, NC 28645. Representative: Edward G. Villalon, 425 13th St., N.W., Suite 1032, Washington, DC 20004. Transporting (1) *furniture,* and (2) *parts and materials* used in the manufacture of furniture, (except commodities in bulk), (a) from points in MD, VA, and DC, to points in NC, SC, GA, AL, and TN, and (b) from points in AL, GA, SC, and TN, to points in NC, VA, MD, and DC.

MC 108937 (Sub-64F), filed May 5, 1980. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164. Transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Barron, Brown, Buffalo, Burnett, Calumet, Chippewa, Clark, Columbia, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Jackson, Jefferson, La Crosse, Lincoln, Manitowoc, Marathon, Monroe, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Rock, Rusk, St. Croix, Sheboygan, Taylor, Trempealeau, Walworth, Washburn, Washington, Waukesha, Waupaca, Winnebago and Wood Counties, WI, Henry, Peoria, Rock Island and Tazewell Counties, IL, Scott County, IA, and Adams, Allen Blackford, Cass, De Kalb, Delaware, Elkhart, Fulton, Grant, Hamilton, Howard, Huntington, Jay, Kosciusko, Lagrange, La Porte, Madison, Marshall, Miami, Noble, Randolph, St. Joseph, Steuben, Tipton, Wabash, Wells, and Whitley Counties, IN, as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 108937 (Sub-65F), filed May 5, 1980. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in AL, GA, NC, SC, and TN as off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 109397 (Sub-516F), filed July 1, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Transporting (1) *commodities,* the transportation of which because of size or weight requires the use of special equipment or handling, and (2) *iron* or *steel articles,* between points in Lauderdale County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 114457 (Sub-576F), filed June 30, 1980. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Transporting (1) *cleaning and polishing compounds, textile softening compounds, lubricants, hypochlorite solution, deodorants, disinfectants, paints, stains, varnish, plastic bags, filters, and dishwashing machines* (except commodities in bulk), and (2) *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Economics Laboratory, Inc.

MC 119777 (Sub-494F), filed June 27, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting (1) *sills, bases, utility bodies, cranes, derricks,* and (2) *materials, equipment and supplies* (except in bulk), used in the manufacture or distribution of (1) above, between the facilities of Pitman Division, A. B. Chance Co., at Grandview, MO, and points in AL, AZ, DE, FL, GA, IL, IN, KY, MD, MI, MN, NJ, NY, PA, SC, TN, TX, UT, VA, WA, WV, OR, CA, MA, OH, NC, CO, NM, and DC.

MC 119777 (Sub-497F), filed July 1, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting (1) *roofing and roofing materials,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Tamko Asphalt Products, Inc.

MC 119777 (Sub-498F), filed June 30, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *metal and metal articles* (except in bulk in tank vehicles), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Jim Walters Metals.

MC 125777 (Sub-274F), filed June 20, 1980. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15 Ave., Gary, IN 46403. Representative: Joel H. Steiner, 39 So. LaSalle St., Chicago, IL 60603. Transporting *silicon carbide and silicon carbide briquettes,* from Milwaukee, WI to those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 126477 (Sub-9F), filed July 1, 1980. Applicant: JET AIR FREIGHT & PARCEL DELIVERY, INC., Baer Field Municipal Airport, P.O. Box 9313, Fort Wayne, IN 46899. Representative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baer Field Municipal Airport, at or near Fort Wayne, IN, on the one

hand, and, on the other, James M. Cox Dayton Municipal Airport, at or near Vandalia, OH, restricted to traffic having an immediately prior or subsequent movement by air.

MC 136786 (Sub-231F), filed June 26, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. Transporting (1) *foodstuffs,* and *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, and (2) *commodities* otherwise exempt from economic regulation under Section 49 U.S.C. 10526(a)(6) in mixed shipments with commodities described in (1) except in (1) and (2) commodities in bulk, and commodities, the transportation of which, because of size or weight require the use of special equipment, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Ocean Spray Cranberries, Inc., and Diamond/ Sunsweet, Inc.

MC 138157 (Sub-249F), filed June 30, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI), restricted to traffic originating at or destined to the facilities of Rocky Mountain Express, Inc., doing business as RME.

MC 139906 (Sub-122F), filed July 1, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting *such commodities* as are dealt in by manufacturers of urethane foam, urethane foram products, fiberglass or fiberglass products, from Forney, TX, to points in the U.S. (except AK and HI).

MC 142686 (Sub-47F), filed July 1, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). *Contract carrier,* transportation (1) *welding equipment, and medical equipment,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Victor Equipment Co. at points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Victor Equipment Co., of Deaton, TX.

MC 142686 (Sub-48F), filed July 1, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 15006 S. Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). *Contract carrier,* transporting (1) *vinyl siding,* and (2) *plastic articles* used in the installation of vinyl siding, between Danville, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Robintech Corp., of Weatherford, TX.

MC 143267 (Sub-116F), filed July 1, 1980. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th Street, NW., Washington, DC 20005. Transporting *lumber and lumber products,* from Greenville and Madison, GA, to points in SC, NC, TN, AR, MO, IA, MN, NE, KS, OK, TX, LA, MS, AL and FL.

MC 146646 (Sub-110F), filed July 1, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting (1) *industrial cleaners, weed killers, and insecticides,* and (2) *materials, equipment, and supplies* used in the manufacture, and distribution of the commodities in (1) above, between the facilities of Oxford Chemicals, Inc., at or near Chamblee, GA and Birmingham, AL.

MC 147397 (Sub-2F), filed July 1, 1980. Applicant: 5 STAR TRUCKING, INC., 5100 S. Archer, Chicago, IL 60632. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, MD, NJ, NY, OH, PA, and WI, restricted to traffic having a prior or subsequent movement by rail or water.

MC 147676 (Sub-3F), filed July 1, 1980. Applicant: KEATON TRUCK LINES, INC., 1001 South Lelia St., P.O. Box 1187, Texarkana, TX 75504. Representative: Patsy R. Washington (same address as applicant). *Contract carrier,* transporting *frozen potato products,* from points in ID, OR, and WA to points in TX, under continuing contract(s) with Mims Meat Co., Inc., of Houston, TX.

MC 148106 (Sub-1F), filed June 25, 1980. Applicant: CASEY TRANSPORTATION, INC., P.O. Box 1054, Leominster, MA 01453. Representative: David M. Marshall, 101 State Street—Suite 304, Springfield, MA 01103. Transporting *such commodities* as are dealt in by suppliers of plastic and rubber materials, between points in the U.S. (except AK and HI), restricted to traffic originated at or destined to the facilities used by H. Muehlstein & Co., Inc.

MC 149026 (Sub-11F), filed June 30, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main St., Van Buren, AR 72956. Representative: Don A. Smith, P.O. Box 43, 510 No. Greenwood, Fort Smith, AR 72902. Transporting (1) *glass and glassware,* and (2) *materials, equipment and supplies* (except commodities in bulk), used in the manufacture, distribution, and packaging of glass and glassware, between Fort Smith, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150117 (Sub-1F), filed June 27, 1980. Applicant: PREMIUM SERVICES, INCORPORATED, 6060 Manchester Ave., St. Louis, MO 63110. Representative: W. R. England III, P.O. Box 456, Jefferson City, MO 65102. *Contract carrier,* transporting *dairy products, dry snack foods, prepared salads, salad dressings, frozen bake goods, animal and vegetable shortening, and beet sugar,* in vehicles equipped with mechanical refrigeration, (except commodities in bulk, in tank vehicles), between points in MO, KS, and CO, under continuing contract(s) with J & R Custom Foods, Raskas Incorporated, Swiss American Importing Co., and Cahokia Flour Company, all of St. Louis, MO.

MC 150666 (Sub-1F), filed July 1, 1980. Applicant: INTERWORLD TRANSPORTATION, INC., 1109 E. Janise Street, Carson, CA 90746. Representative: Lewis P. Ames, 111 West Monroe, 10th Floor, Phoenix, AZ 85003. *Contract carrier,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of International Traffic Services, Inc., and its wholly owned subsidiary, Marco Cartage, at (a) Carson, CA, and (b) Phoenix and Tucson, AZ, under continuing contract(s) with International Traffic Service, Inc. of Phoenix, AZ.

MC 151047 (Sub-1F), filed June 16, 1980. Applicant: DICK WELLER, INC., Shoham Rd., P.O. Box 313, Warehouse

Point, CT 06088. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. *Contract carrier,* transporting (1) *builders' hardware, drapery hardware, hand tools, steel strapping, and band and strap steel,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK, HI, ID, MA, MT, ND, NH, NM, SD, VT, and WY), under continuing contract(s) with The Stanley Works, of New Britain, CT.

MC 151166 (Sub-1F), filed June 26, 1980. Applicant: GERRY'S TRANSPORT LEASING INC., 103-17 Metropolitan Avenue, Forest Hills, NY 11375. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier,* transporting *floor covering,* from points in GA, TN, NC, and SC to New York, NY, under continuing contract(s) with Turkeltaub & Schiffer, Inc., of Glendale, NY.

MC 151196F, filed June 26, 1980. Applicant: ARTHUR F. HAZEN & SON, INC., 525 Spring Ave., Ellwood City, PA 16117. Representative: Ronald A. Hazen (same address as applicant). *Contract carrier,* transporting *petroleum and petroleum products,* in tank vehicles, from Harmony, Ellwood, and Pittsburgh, PA, to points in OH, and (2) from Noel, WV, to Harmony, Ellwood and Pittsburgh, PA, and points in OH, under continuing contract(s) with Mid-Penn Refining Co., of Harmony, PA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23334 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 F.R. 45539.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.247(B). Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-001

Decided: July 10, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 114533 (Sub-373F), filed July 3, 1980. Applicant: GELCO COURIER SERVICES, INC., P.O. Box 1975, St. Paul, MN 55111. Representative: Sally G. Galway (same address as applicant). Transporting *shipments weighing 100 pounds or less* between points in the U.S.

Volume No. OP3-002

Decided: July 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Jones not participating.

MC 107295 (Sub-939F), filed July 23, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 115904 (Sub-143F), filed July 21, 1980. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadwy, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 121454 (Sub-6F), filed July 18, 1980. Applicant: WALSH MESSENGER SERVICE, INC., 4 Third Street, Garden City Park, NY 11040. Representative: Eugene M. Malkin, Two World Trade Center, Suite 1832, New York, NY 10048. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 145664 (Sub-20F), filed July 21, 1980. Applicant: STALBERGER, INC., 223 South 50 Avenue West, Duluth, MN 55807. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 146465 (Sub-8F), filed July 23, 1980. Applicant: LAWRENCE PILGRIM, d.b.a. PILGRIM TRUCKING COMPANY, P.O. Box 877, Cleveland, GA 30528. Representative: Jeffrey Kohlman, Suite 508, 1447 Peachtree St., NE., Atlanta, GA 30309. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 149334 (Sub-1F), filed July 16, 1980. Applicant: PIONEER TRUCKING, INC., 2500 28th St., SW., Wyoming, MI 49509. Representative: Barry Weintraub, 8133 Leesburg Pike, Suite 800, Vienna, VA 22180. Transporting *general*

commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

Volume No. OP2–003

Decided: July 24, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 148623 (Sub-2F), filed July 18, 1980. Applicant: RON BUNGER, d.b.a. RON BUNGER TRUCKING AND FERTILIZER LTD., Box 156, Davis Junction, IL 61020. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., restricted to traffic handled for the U.S. Government.

Volume No. OP5–001

Decided: July 21, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 111729 (Sub-766F), filed July 7, 1980. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Peter A. Greene, 900 17th Street, NW., Washington, DC 20006. Transporting *shipments* weighting 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States.

MC 115279 (Sub-9F), filed July 18, 1980. Applicant: CLICK MESSENGER SERVICE, INC., 347 Lincoln Ave., East Cranford, NJ 07016. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States.

MC 145808 (Sub-3F), filed July 7, 1980. Applicant: RED ARROW DELIVERY SERVICE CO., INC., Air Cargo Building, Metropolitan Airport, Nashville, TN 37217. Representative: Peter A. Greene, 900 17th St., NW., Washington, DC 20006. Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States.

MC 151219 (Sub-9F), filed July 7, 1980. Applicant: ASSOCIATED AIR FREIGHT, INC., 3333 New Hyde Park, New Hyde Park, NY 11040. Representative: Leonard A. Jaskiewicz, 1730 M Street, NW., Washington, DC 20036. Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23333 Filed 8-4-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program Israel; Information for Lenders

The Agency for International Development (A.I.D.) intends to authorize a guaranty of a loan in an amount not to exceed $25 million to finance mortgages and rental renovation for low income families in Israel. Eligible investors as defined below are invited to make proposals to the Government of Israel. The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the Act).

This project is referred to as Project No. 271–HG–007.

Lenders (Investors) eligible to receive an A.I.D. guaranty are those specified in Section 238(C) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly-owned by U.S. citizens.

Selection of an eligible investor and the terms of the loan are subject to approval by A.I.D. The investor and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of a borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the borrower.

To be eligible for guaranty, the loan must be repayable in full no later than the thirtieth anniversay of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by A.I.D. The Borrower projects a schedule of a single disbursement for the total amount of the loan to be made approximately on September 15, 1980.

The borrower desires to receive proposals from eligible investors as defined above. The proposals should be based on the indicated disbursement schedule shown above. Since investor selection will be made on the basis of the proposals, the proposals should contain the best terms to be offered by investors. The proposals should state:

A. The fixed interest rate per annum for a period not to exceed thirty (30) years from the first disbursement.

B. The grace period for repayment of principal; such period not to exceed ten (10) years.

C. The minimum time during which prepayment of principal will not be accepted.

D. The investor's commitment or service fee, if any, and schedule of payment of such fee.

E. The period during which the proposal may be accepted which shall be at least forty-eight (48) hours after the closing date specified below.

The proposal may state other terms and conditions which the investor desires to specify. After investor selection by the borrower and approval by A.I.D., the borrower and investor shall negotiate all other terms and conditions of the Loan Agreement.

In the event the investor will engage in the reselling of the loan to other persons, the investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the borrower.

The closing date by which prospective investors are requested to submit proposals to the borrower is the close of business on August 18, 1980. Negotiation of the Loan Agreement and Contract of Guaranty is expected to take place beginning August 28, 1980 in New York, New York.

Eligible investors are invited to consult promptly with the borrower. Those investors interested in extending a loan to the borrower should communicate with the borrower at the following address:

Mr. Shalom Barak, Chief Fiscal Officer, Government of Israel, Empire State Building, 19th Floor, 350 Fifth Avenue, New York, New York 10001 Telephone: (212) 560–0640.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523. Telephone: (202) 632–9637.

To facilitate A.I.D. approval, copies of proposals made to the borrower may, at the investor's option, be sent to A.I.D. at the above address on or after the closing date noted above.

This notice is not an offer by A.I.D. or by the borrower. The borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

Dated: July 25, 1980.

David McVoy,

Assistant Director for Operations, Office of Housing.

[FR Doc. 80-23501 Filed 8-4-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-80-63-M]

Burn Construction Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Burn Construction Company, Inc., Post Office Drawer 869, 2335 East Lohman Avenue, Las Cruces, New Mexico 88001 has filed a petition to modify the application of 30 CFR 56.6-20 (location and requirements of magazines) to its Vado Quarry located in Dona Ana County, New Mexico. The petition is filed under section 101(c) of the Federal Mine Safety and Healthy Act of 1977.

A summary of the petitioner's statements follows:

1. Peitioner's magazine is located in a remote area approximately 18 miles from Las Cruces The magazine is not visible from the highway and is fenced in and locked. Petitioner's employees have the only keys to the area.

2. Petitioner feels that pricing signs near the magazine would draw unnecessary attention to the area, posing a potential danger.

3. In lieu of using signs, petitioner proposes to place dirt berms around the magazine, thereby hiding it from passersby.

4. Petitioner states that this alternative method would provide the same degree of protection as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 5, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 25, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 23537 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-60-M]

International Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

International Salt Company, Avery Island, Louisiana 70513 has filed a petiton to modify the application of 30 CFR 57.4-61B (Fire prevention and control) to its Avery Island Mine located in Iberia Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms are large—100 to 150 feet wide and 25 to 140 feet high.

2. The shop area is located on return air in rooms that are 100 feet wide and 28 feet high.

3. Construction of an air tight ventilation door would seriously restrict air flow through the shop area and would interfere with ingress and egress of large off-highway type mining equipment.

4. The petitioner alleges that air tight doors would confine gases, both toxic and otherwise, thereby creating a potentially explosive atmosphere.

5. As an alternative to the application of 30 CFR 57.4-61B, the petitioner proposes to use a medium frequency radio communications system which covers all areas of the mine to notify miners of any fire, smoke, or toxic gas. The petitioner alleges that miners can evacuate the mine in less time than it would take to secure the ventilation doors required by the standard.

6. The petitioner states that application of the alternative method will afford the miners the same degree of protection as would be afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 4, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 29, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-23533 Filed 8-4-80 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-61-M]

International Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

International Salt Company, Avery Island, Louisiana 70513 has filed a petition to modify the application of 30 CFR 57.4-61A (Fire prevention and control) to its Avery Island Mine located in Iberia Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms are large—100 to 150 feet wide and 25 to 140 feet high. There are three levels and a fourth level is planned.

2. The petitioner's mine has three shafts. They are remote from each other. Two exhaust air shafts bottom at the 500 foot level; the third shaft (intake air) intersects the 500 foot level and bottoms at 1000 feet.

3. One exhaust shaft is concrete lined. The other exhaust shaft is conventionally timbered. No other combustibles are in or around either of these shafts or their access drifts. Any smoke or toxic gases emenating from a fire in the timbered shaft would be exhausted to the surface.

4. Construction of air tight ventilation doors in the large areas would not only be difficult, but they would restrict the flow of air.

5. As an alternative to the application of 30 CFR 57.4-61A, the petitioner proposes to use a medium frequency radio communications system which covers all areas of the mine to notify miners of any fire, smoke, or toxic gas. The petitioner alleges that miners can evacuate the mine in less time than it would take to secure the ventilation doors required by the standard.

6. The petitioner states that application of the alternative method will afford the miners the same degree of protection as would be afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 4, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627,

4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Frank A. White,

Director Office of Standards, Regulations and Variances.

[FR Doc. 80-23534 filed 8-4-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-91-C]

The North American Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

The North American Coal Corporation, Eastern Division, Seward, Pennsylvania 15954 has filed a petition to modify the application of 30 CFR 75.1719 (Illumination) to its Aulds Run No. 2 Mine located in Indiana County, Pennsylvania, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner installed an approved fluorescent lighting system on a continuous mining machine in accordance with an approved plan.

2. The petitioner alleges a diminution of safety for the following reasons:

a. Glare from the installed lights causes the operators to misjudge the limited clearance between the top of the continuous mining machine and the roof—a distance of only 4 or 5 inches, or even less if crossbars are used for roof supports.

b. Glare from the installed lights prevents the operator from seeing the cutting head of the continuous miner even when glare shields are used.

c. The operator can not see through the fluorescent light to focus on objects ahead when tramming.

3. As an alternative to the application of 30 CFR 75.1719, the petitioner proposes to operate the continuous miner with the original headlights until such time as a workable illumination system is developed and made available.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 4, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 25, 1980.

Frank A. White,

Director Office of Standards Regulations and Variances.

[FR Doc. 23535 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-71-M]

The United Nuclear-Homestake Partners; Petition for Modification of Application of Mandatory Safety Standard

The United Nuclear-Homestake Partners, Post Office Box 98, Grants, New Mexico 87020, has filed a petition to modify the application of 30 CFR 57.4-61-A (fire prevention and control) to its Section 13 Mine located in McKinley County, New Mexico. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The standard requires that ventilation doors be installed at or near shaft stations and escapeways to prevent the spread of smoke or gas in the event of a fire.

2. Petitioner's mine is one level having a single shaft lined with concrete and steel. All shaft escape ladders, landings, dividers, and shaft framework are steel construction. The shaft section is floored and lined with concrete.

3. Petitioner alleges the above standard is designed for mines with wooden shafts and would diminish safety in the Section 13 Mine because installing a fire door at or near the shaft station would:

(a) Reduce the size of the drift opening and there by create a hazard to mobil equipment operators,

(b) restrict the operator's ability to control ventilation, and

(c) obstruct miners' access to the shaft for escape purposes.

4. Petitioner wishes to install remote controlled steel shaft covers at the shaft surface, and adjust the main surface fan so that, in case of fire, it directs smoke from the shaft.

5. Petitioner alleges the above modification protects miner safety more adequately than does the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 4, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 25, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-23536 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-43-M

[TA-W-8430]

Office of the Secretary

Adria Industries, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 2, 1980 in response to a worker petition received on May 13, 1980 which was filed on behalf of former workers at Adria Industries, Incorporated, Brooklyn, New York. The workers produce knitwear.

The investigation revealed that another petition (TA-W-7818) has also been filed on behalf of the same group of workers at Adria Industries, Incorporated, Brooklyn, New York. Since the identical group of workers is the subject of the ongoing investigation (TA-W-7818), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 25th day of July 1980.

Marvin F. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-23527 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7909]

Affirmative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 80-18724 appearing on page 41720 in Federal Register of June 20, 1980, the TA-W-number in Commercial Carriers, Inc., Oakland, California appearing on page 41725 should be corrected to read tA-W-7986.

Signed at Washington, D.C. this 23rd day of July 1980:

James F. Taylor,

Director, Office of Management Administering and Planning.

[FR Doc. 23524 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker

adjustment assistance issued during the period July 21–25, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That is a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determination

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7769; Shelton-Pontiac Buick, Rochester, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8024; Lipsett & Byron Midwest, Inc., Monongehela, Pa.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7752; American Airlines Fleet, Romulus, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7692; Sash & Spring FCU; Southfield, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7992; Associated Transport, Inc., Hazlewood, Mo.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7729; Aloha Shake, Inc., Pacific Beach, Wash.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7994; Jim Couley, Inc., Detroit, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8156; Eisenbert & Eisenbert; New York, N.Y.

Investigation revealed that criterion (3) has not been met. Sales production and employment declines at the subject firm were marginal and did not result from increased import competition.

TA–W–7972; Buckeye Group, Brookpark, Wash.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7538; Figure Flattering, Inc., El Paso, Tex.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8035; Westing House Buffalo, Buffalo, N.Y.

Investigations revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8038; Servomation Corp. Jamesville, N.C.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7858; Merit Clothing, Mayfield, Ky.

Investigation revealed that criterion (3) has not been met. Separations from the subject firm were seasonal in nature.

TA–W–7504; CH Symingoto & Co., Royal Oak, Mich.

With respect to workers engaged in the sale of wire, the investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

With respect to workers producing wire feeding systems, the investigation revealed that criterion (3) has not been met. Imports or wire feeding systems are negligible.

TA–W–8181; Special Engineer Service, Dearborn, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7634; Gateway Transportation, Flint, Mich.

Investigation revealed that the workers do not produce an article as required for certificaton under Section 223 of the Act.

TA–W–7849; Custom Decorating, Kearny, N.J.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7643; Trans Fleet, Atlanta, Ga.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7847; Chippewa Shoe Co., Chippewa Falls, Wis.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7678; FMC Corporation, Indianapolis, Ind.

The investigation revealed that criterion (2) has not been met.

TA–W–7589; Dayton Tire & Rubber, Dayton, Ohio

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7561; Cormier Corp, Franklin, N.H.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7563; White Mt. Industries, N. Haverhill, N.H.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7564; Woodsville Industries. N Haverhill, N.H.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased

imports did not contribute importantly to worker separations at the firm.

TA–W–8315; True Form Foundation, Darby, Pa.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8360; Flexee, Pittston, Pa.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7896; D&H Cedar, Hoquiam, Wash.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7702; Corky's Cedar Production, South Bend, Wash.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7730; ITT Auto Elec. Prod, Port Angeles, Wash.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of Atwood Plywood are negligible.

TA–W–7649; Anderson & Middleton Lumber, Aberdeen, Wash.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7741; Anderson & Middleton Lumber, Aberdeen, Wash.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7866; Lyle Bryant Shake, Raymond, Wash.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7651; Firestone Tire & Rubber, Southgate, Calif.

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to seprations of workers producing truck tires at the firm.

TA–W–7708; Commercial Transport, Inc., Indianapolis, Ind.

Investigation revealed that the workers do not produce an article required for certification under Section 223 of the Act.

TA–W–7756; Frank-Lincoln Mercury, Franklin, Maine

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7960; C&H Sportswear, Inc., Mountaintop, Pa.

Investigation revealed that criterion (3) has not been met. Sales by manufacturers for which the subject firm produced under contract did not decline.

TA–W–8034; Chrysler Corp., Belvidere, Ill.

Investigation revealed that criterion (2) has not been met.

TA–W–7751; Allied International, Inc., Charlestown, Maine

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of softwood plywood are negligible.

TA–W–8063; Regina Co., Rahway, N.J.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7791; Aloha Cedar Products, Pacific Beach, Wash.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8050; Rud-Shaw Mfg., Co., New York, N.Y.

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8774; Flint Boxmakers, Inc., Flint, Mich.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of corrugated boxes are negligible.

TA–W–8174; S&W Milling & Salvage, Forks, Wash.

Investigation revealed that criterion (3) has not been met. Reduced sales at the subject firm resulted from a general decline in demand for cedar shakes which occurred in the first half of 1980.

TA–W–8316; Nehalem & Bay Co., Clallam Bay, Wash.

Investigation revealed that criterion (3) has not been met. The closure of the firm resulted from factors other than increased import competition.

TA–W–8128; Kenworth Truck Co., Kansas City, Mont.

Investigation revealed that criterion (3) has not been met.

Imports of heavy duty trucks and all the road-vehicles are not significant relative to domestic production and did not contribute importantly to separations from the firms.

TA–W–8574; Peterbilt Motors Co., Madison, Tenn.

Investigation revealed that criterion (3) has not been met.

Imports of heavy duty trucks and all the road-vehicles are not significant relative to domestic production and did not contribute importantly to separations from the firms.

TA–W–8160; Dart Truck Co., Kansas City, Mont.

Investigation revealed that criterion (3) has not been met.

Imports of heavy duty trucks and all the road-vehicles are not significant relative to domestic production and did not contribute importantly to separations from the firms.

TA–W–8157; Dorby Casuals, Inc., New York, N.Y.

Investigation revealed that criterion (3) has not been met. A survey of Customers indicated that increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

In each of the following cases, it has been concluded that all of the criteria have been met, and certifications have been issued covering workers totally or partially separated from employment on or after the designated dates.

TA–W–7910; Chrysler Corp., Detroit, Mich.

A certification was issued covering all workers of the firm separated on or after January 1, 1980.

TA-W-8306; Trio Sportswear, Lewisville, Tex.

A certification was issued covering all workers of the firm separated on or after April 16, 1979.

TA-W-8306 A; Trio Sportswear, Lewisville, Tex.

A certification was issued covering all workers of the firm separated on or after April 16, 1979.

TA-W-8307; Trio Sportswear, Lewisville, Tex.

A certification was issued covering all workers of the firm separated on or after April 16, 1979.

TA-W-8309; Trio Sportswear, Lewisville, Tex.

A certification was issued covering all workers of the firm separated on or after April 16, 1979.

TA-W-7720; Gray Harbor Shake, Hoquiam, Wash.

A certification was issued covering all workers of the firm separated on or after April 28, 1979.

TA-W-8029; Chrysler Corp., Highland Park, Mich.

A certification was issued covering all workers of the firm separated on or after August 1, 1979.

TA-W-7269; Patmon Oldsmobile, Inc., Grosse Point Par, Mich.

A certification was issued covering all workers of the firm separated on or after September 1, 1979 and before July 1, 1980.

TA-W-7746; Hardesty-Quittner, Inc., Sinking Spring, Pa.

A certification was issued covering all workers of the firm separated on or after March 31, 1979.

TA-W-7797; Myers Oldsmobile-GMC, Inc., Sterling Heights, Mich.

A certification was issued covering all workers of the firm separated on or after January 1, 1980 and before July 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period July 21–25, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-23520 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7261]

Evans Products Co., Forest-Fiber Products Group, Missoula Division; Negative Determination Regarding Application for Reconsideration

By separate letter of June 4, and June 20, 1980, the union and counsel requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment assistance in the case of workers and former workers of the Evans Products Company Forest-Fiber Products Group, Missoula Division, Missoula, Montana. The determination was published in the Federal Register on May 23, 1980 (45 FR 35043).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

Counsel claims in its application for reconsideration that the Evans Products Company imported stumpage and veneer from Canada and that the Department should have given consideration to the imports of plywood in its earlier stage of production—veneer. The union in a separate application claims that the import test for plywood was met in 1979.

The Department's review showed that the Missoula plant produced plywood and softwood lumber with plywood constituting the principal product produced. Veneer was produced only as an intermediate product and for Evans' own consumption. The Department's review further showed that the workers at the Missoula, Montana plant failed to meet the "contributed importantly" test for both plywood and lumber. U.S. imports of both plywood and softwood lumber decreased in 1979 compared to 1978. The ratio of imports to domestic production of plywood was less than one percent during each year from 1978 through 1979. The ratio of imports to domestic production of softwood lumber remained at the same level in both 1978 and 1979.

As for counsel's claim that the Department should have given consideration to imports of products in an earlier stage of production—stumpage and veneer, the Department generally disagrees. Under Section 222(3) of the Trade Act, in order to issue a certification, the Department must find that increases of imports of articles like or directly competitive with the articles produced at the petitioning workers' firm contributed importantly to the workers' separation. Stumpage and veneer are not like or directly competitive with the plywood or lumber produced by Evans Products Company. While it may be true that veneer was produced at Evans Products Company as an intermediate stage of production and that Evans did import some veneer, its veneer imports represented an insignificant amount compared to production of veneer at Evans. Further the Department does not agree with the union's claim that the increased import test was met for plywood in 1979. The Department's review has shown that this is not the case.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law, which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 18th day of July 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-23521 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9143]

M. Hoffman Co. Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 30, 1980 in response to a worker petition received on June 23, 1980 which was filed on behalf of workers and former workers employed at the warehousing facility of M. Hoffman Company, Incorporated, South Hackensack, New Jersey.

On June 16, 1980 a petition was filed on behalf of the same group of workers (TA-W-9115).

Since the identical group of wokers is the subject of the ongoing investigation (TA–W–9115), a new investigation would serve no purpose. Consequently, this investigation has been terminated.

Signed at Washington, D.C., this 25th day of July 1980.

Marvin F. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-23531 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7217, 7217A, 7218 and 7219]

Libbey-Owens-Ford Co.; Negative Determination Regarding Application for Reconsideration

By an application dated June 23, 1980, the United Glass & Ceramic Workers of North America, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing automotive windshields and other glass products at Libbey-Owens-Ford Company's East Toledo, Ohio; Rossford, Ohio; Ottawa, Illinois and Lathrop, California plants. The determination was published in the Federal Register on May 23, 1980, (45 FR 35046).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that component parts (automotive glass products) are like or directly competitive with the imported finished article (automobiles already fitted with automotive glass).

The Department's review showed that workers of the E. Toledo, Ohio; Rossford, Ohio; Ottawa, Illinois and Lathrop, California plants of the Libbey-Owens-Ford Company did not meet the increased import criterion or the "contributed importantly" test of the Trade Act of 1974. U.S. imports of automotive windshields, window and rear back lights as well as plate and float glass declined absolutely and relative to domestic production in 1979 compared to 1978. The ratio of imports to domestic production for both import categories was less than 1.5 percent in 1979. None of the respondents in the Department's survey of Libbey-Owens-Ford reported decreased purchases from Libbey and increased import purchases of automotive windwhields, side and back windows and float glass in 1979 compared to 1978. Some customers reported increased import purchases of float glass in the first two months of 1980 compared to the same period in 1979 but these import purchases accounted for only an insignificant portion of Libbey's 1980 sales decline for January and February.

The Department does not see any validity in the petitioner's claim concerning component parts being like or directly competitive with the finished article. The Department's position that the final product is not like or directly competitive with component parts thereof has been supported by the courts and has been maintained throughout the history of the trade adjustment assistance program.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 18th day of July 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-23525 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7340]

Maben Energy Corp. Mines Nos. 1, 3, 4, and 5; Negative Determination Regarding Application for Reconsideration

By an application dated June 26, 1980, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the Maben Energy Corporation's mines No. 1, No. 3, No. 4, and No. 5 in Wyoming County, West Virginia. The determination was published in the Federal Register on June 6, 1980, (45 FR 38193).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that the Maben Energy Corporation ships its coal to Westmoreland Coal Company's central stockpile. Workers employed in Westmoreland's mines, certified eligible for trade adjustment assistance in 1978, also ship their coal to the Company's central stockpile.

The Department's review shows that workers at the Maben Energy Corporation's Mines No. 1, No. 3, No. 4, and No. 5 in Wyoming County, West Virginia were denied eligibility because they did not meet the "contributed importantly" test of the Trade Act of 1974. U.S. imports of metallurgical coal and coke which the Department has determined is directly competitive with metallurgical coal, decreased both absolutely and relative to domestic production in 1978 and 1979 from the immediately preceding years, respectively. The ratio of imports of metallurgical coal and coke to domestic production of metallurgical coal and coke was .08 percent and 7.50 percent, respectively.

The Department notes that the 1978 certification of Westmoreland Coal Company was based on a period during which imports of coke were increasing. This is not the case today or the period during which the Maben Energy Corporation's Mines No. 1, No. 3, No. 4, and No. 5 have been operating. Maben's four mines have had steady employment through 1979 and actually increased in the first two months of 1980 compared to the same period in 1979. The petition was prompted as a result of the closing of the mines for one week in January and another in February, 1980, as a result of transportation difficulties.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretion of fact or misinterpretion of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore denied.

Signed at Washington, D.C., this 28th day of July 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-23522 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8723]

Monsanto Textile Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 16, 1980 in response to a worker petition received on June 6, 1980 which was filed on behalf of workers and former workers of the Decatur, Alabama plant and Technical Center of the Monsanto Textile Company.

The petitioner requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 25th day of July 1980.

Marvin F. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-23528 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8795]

Regency Metal Stampings, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 16, 1980 in response to a worker petition received on May 21, 1980 which was filed on behalf of workers and former workers producing brackets, braces and supports at Regency Metal Stampings, Incorporated, Toledo, Ohio.

In a letter dated July 7, 1980, the petitioners requested withdrawal of the petition. On the basis of this withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 25th day of July 1980.

Marvin F. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-23529 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4764]

Standard Beef Co., Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 3, 1979, applicable to all workers of Standard Beef Company, Inc., Scranton, Pennsylvania. The Notice of Certification was published in the Federal Register on April 13, 1979, (44 FR 2223).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The additional information revealed that a layoff occurred a few days prior to the impact date. This layoff was not covered by the original impact date of June 1, 1978. Under the circumstances, the original impact date of June 1, 1978, contained in the initial certification has been changed to May 26, 1978.

The intent of the certification is to cover all workers who were affected by the decline in the processing of boneless beef products related to import competition at the Standard Beef Company, Inc., Scranton, Pennsylvania. The certification, therefore, is amended to include a new impact date of May 26, 1978.

The amended certification applicable to TA-W-4764 is hereby issued as follows:

All workers of Standard Beef Company, Inc., Scranton, Pennsylvania who became totally or partially separated from employment on or after May 26, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of July 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-23523 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8308]

Trio Sportswear of Dallas, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974 (19 USC), an investigation was initiated on May 27, 1980 in response to a worker petition received on April 23, 1980 which was filed on behalf of workers and former workers producing misses' and juniors' sportswear at the Van Alstyne, Texas plant of Trio Sportswear of Dallas, Incorporated.

Evidence developed in the course of the investigation revealed that all workers at the Van Alstyne, Texas plant of Trio Sportswear of Dallas were separated from employment during February 1979. The date of the petition for the Van Alstyne plant is April 16, 1980. In accordance with Section 223(b) of the Act, no certification may apply to any worker whose last total or partial separation from the subject firm occurred before April 16, 1979, one year prior to the date of the petition. No workers at the Van Alstyne, Texas plant would be eligible to apply for adjustment assistance. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 22th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-23532 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8427]

Uniroyal Tire Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 2, 1980 in response to a worker petition received on May 23, 1980 which was filed on behalf of workers and former workers at Uniroyal Tire Company, Los Angeles, California.

The workers at the Los Angeles, California plant of Uniroyal Tire Company were previously certified as eligible to apply for trade adjustment assistance on June 14, 1978 (TA-W-2928). although that certification expired on June 14, 1980, the Office of Trade Adjustment Assistance issued a memorandum on May 20, 1980 extending coverage of that certification to each of the four remaining employees of that facility. A new investigation would serve no purpose, and, consequently, the investigation has been terminated.

Signed at Washington, D.C. this 25th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-23526 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8782]

Walway Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was

instituted on June 16, 1980 (TA-W-8782) in response to worker petition which was filed on behalf of workers at Walway Company, Southfield, Michigan. The workers produce metal stampings and assemblies.

On May 27, 1980 an investigation was initiated in response to a worker petition received on May 21, 1980 which was filed on behalf of workers producing metal stampings and assemblies at the Southfield, Michigan plant of Walway Company (TA-W-8378).

Since the identical group of workers is the subject of the ongoing investigation TA-W-8378, the investigation for TA-W-8782 has been terminated.

Signed at Washington, D.C., this 25th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-23590 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

Steel Tripartite Advisory Committee, Working Group on Technological Research and Development Meeting

The Steel Tripartite Advisory Committee was established under the Federal Advisory Committee Act, 5 U.S.C. App. (1976) to advise the Secretary of Labor and the Secretary of Commerce on international and domestic issues affecting the U.S. steel industry, labor, and the public.

Notice is hereby given that the Steel Tripartite Advisory Committee's Working Group on Technological Research and Development will meet at 2:00 PM on August 13, 1980, in room 3708, Main Commerce Building, U.S. Department of Commerce, Washington, DC 20230.

Participants will continue development of the working group's report to the full Steel Tripartite Advisory Committee. Due to the time schedule of the working group's activity in relation to the tight deadlines established by the full Steel Tripartite Advisory Committee, sufficient time was not available to give 15 days advance notice of the working group meeting. The public is invited to attend. A limited number of seats will be available to the public on a first-come basis.

For additional information contact: Mr. Joseph S. Papovich, Executive Secretary, Steel Tripartite Advisory Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, DC 20210, telephone (202) 523-6227.

Official records of the meeting will be available for public inspection at room S-5315, U.S. Department of Labor, Washington, DC 20210.

Signed at Washington, DC, this 31st day of July 1980.

Dean K. Clowes,

Deputy Under Secretary for International Affairs U.S. Department of Labor.

[FR Doc. 80-23538 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-28-M

Wage and Hour Division

Certificates Authorizing the Employment of Learners at Special Minimum Wages

Notice is hereby given the pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214). Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and Administrative Order No. 1-76 (41 FR 18949), the firm listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For such certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

The normal labor turnover certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended) and authorize the number of workers indicated.

College Casuals Co., Sheppton, PA; 04-23-80 to 01-22-81. 10 learners. (Ladies' slacks)

Flushing Shirt Mfg. Co., Inc., Waynesburg, PA; 04-18-80 to 01-17-81. 10 percent of the total number of factory production workers. (Men's & boys' pants)

J. H. Rutter Rex Mfg., Inc., Franklinton, LA; 04-24-80 to 04-23-81 10. learners. (Men's shirts)

The following certificate was issued under the knitted wear industry regulations (29 CFR 522.1 to 522.9, as amended and 522.30 to 522.35, as amended).

Louis Gallet, Inc., Uniontown, PA; 06-20-80 to 06-19-81. 5 learners for normal labor turnover. (Men's & boys' sweaters)

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available.

The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR, Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before August 20, 1980.

Signed at Washington, D.C. this 28th day of July, 1980.

Arthur H. Korn,

Authorized Representative of the Administrator.

[FR Doc. 80-23519 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 80-58]

Nasa Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

The Informal Ad Hoc Advisory Subcommittee on the Numerical Aerodynamic Simulator (NAS) of the NAC AAC will meet on August 21, and 22, 1980. The Subcommittee meeting will start at 8:30 a.m. on the 21st and will adjourn at 12:00 p.m. on the 22nd. The meeting will be held in the Committee Room Building 200, NASA Ames Research Center, Moffett Field, CA. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including Subcommittee Members and participants).

The Subcommittee was established to evaluate the importance of NAS to NASA in carrying out its role in aerodynamic research. The Chairperson is Prof. S. M. Bogdonoff and there are 16 members on the Subcommittee.

For further information contact Dr. Ellis E. Whitting, Executive Secretary of the Subcommittee, Code RT, National Aeronautics and Space Administration, Washington, DC 20546, telephone 202/755-3280

Gerald D. Griffin,

Acting Associate Administrator for External Relations

July 29, 1980.

[FR Doc. 80-23399 Filed 8-4-80; 8:45 am]

BILLING CODE 7510-01-M

OFFICE OF THE FEDERAL REGISTER

National Building Code; Public Meeting

AGENCY: Office of the Federal Register.

ACTION: Notice of public meeting.

SUMMARY: The National Conference of States on Building Codes and Standards (NCBSCS) plans to revise the National Building Code. Revision of the Code will be accomplished through NCSBCS, ANSI-Approved Consensus Procedures which require involvement of technically qualified representatives from all interested and affected parties. The Office of the Federal Register, as a public service, announces a public meeting to initiate the revision of the Code.

DATE: September 10, 1980, 9:00 a.m.–5:00 p.m.

ADDRESS: The meeting will be held at the Doubletree Inn on the Mall, 7353 East Indian School Road, Scottsdale, Arizona.

FOR FURTHER INFORMATION CONTACT: Gary Segal, Office of the Federal Register, (202) 523–4534.

Further information on the National Building Code, sections proposed for revision, NCSBCS consensus procedures, the committee structure for the Code's revision, or on the public meeting, can be obtained from Robert Wible, Director of Communications, National Conference of States on Building Codes & Standards, 481 Carlisle Drive, Herndon, Virginia 22070 (703) 437–0100.

SUPPLEMENTARY INFORMATION: To initiate revision of the National Building Code, the NCSBCS will hold a public meeting to solicit comments from participants in the housing and building construction process on what areas in the existing (1976) edition of the Code need to be revised. At the public meeting, NCSBCS will also detail its American National Standards Institute-approved consensus procedures and proposed committee structure that will be the framework for the Code's revision.

First issued in 1905 by the National Board of Fire Underwriters—the forerunner of the American Insurance Association (AInsA)—the National Building Code regulates life safety and fire protection features in buildings. Approximately 1800 governmental jurisdictions in the United States have adopted all or part of the National Building Code. Transfer of the National Building Code from AInsA to NCSBCS came about because AInsA felt that, "today's changing environment required that it (the Code) be a consensus based document and that NCSBCS has the kind of organization that will provide such a consensus base to the National Building Code."

There is no fee for participation in the public meeting, which is being held in conjunction with NCSBCS's Annual Conference.

Ernest J. Galdi,

Acting Director of the Federal Register.

[FR Doc. 80-23394 Filed 8-4-80; 8:45 am]

BILLING CODE 1505-02-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-6176]

Augat, Inc.; Application To Withdraw From Listing and Registration

July 30, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Augat, Inc. (the "Company") common stock is listed and registered for trading on the American Stock Exchange and, pursuant to a Registration Statement on Form 8-A which became effective on June 18, 1980, the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE, and believes that dual listing would fragment the market for its common stock.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before August 20, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-23559 Filed 8-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17024; SR-CBOE-80-18]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

July 30, 1980.

On June 23, 1980, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60604, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to make permanent the rule permitting members of a joint account to trade with each other but not with the joint account.

Notice of the proposed rule change together with the text of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-16945, July 1, 1980) and by publication in the Federal Register (45 FR 45991, July 8, 1980). The Commission has received no written statements with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the CBOE proposal prior to the thirtieth day after the date of publication of notice of filing thereof, in that unless the proposal is approved the present rule would expire by its terms on July 31, 1980, and would leave without restriction the manner in which members of a joint account may trade.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-23565 Filed 8-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21667; 70-6466]

Colonial Gas Energy System et al.; Supplemental Notice of Issuance and Sale of Holding Company Common Stock to Public; and Issuance and Sale of Common Stock to Parent by Subsidiaries; Deferral of Action on Termination of Dividend Waiver

July 30, 1980.

In the matter of Colonial Gas Energy System, 73 East Merrimack Street, Lowell, Massachusetts 01853; Lowell Gas Company, 95 East Merrimack Street, Lowell, Massachusetts 01853; Cape Cod Gas Company, P.O. Box 1360, Hyannis, Massachusetts 02601.

Notice is hereby given that Colonial Gas Energy System ("Colonial"), a holding company, Lowell Gas Company ("Lowell"), and Cape Cod Gas Company ("Cape Cod"), public utility subsidiaries of Colonial, have filed a declaration and amendments thereto designating Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act"), and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration for a complete statement of the proposed transactions.

On October 7, 1977, Colonial filed an application for exemption under Section 3(a)(1) of the Act (File No. 31-763). Its application for exemption is pending. Pursuant to a Stipulation in that proceeding dated January 26, 1978, entered into by Colonial and the Division of Corporate Regulation pending the development of a plan of financial simplification or recapitalization by Colonial appropriate to the requirements for exemption under Section 3(a)(1), Colonial has registered as a public utility holding company under Section 5(a) for the limited purpose of complying with the provisions of Sections 6, 7 and 12(b) of the Act.

Colonial's corporate capital structure, as of March 31, 1980, is shown in the following table:

	Actual	Ratio
Long-term debt	45,645	50.2
Short-term debt	15,580	17.1
Minority interest	5,860	6.4
Preferred stock	5,550	6.1
Common equity	18,288	20.2
Total capitalization	90,923	100.0

[1] 1,000's omitted.

On May 23, 1980, we noticed (HCAR No. 21590) a proposal of Colonial to exchange shares of restricted stock for unrestricted stock and upon consummation of such exchange to issue and sell additional common stock by public offering and to invest the net proceeds in subsidiary common stock. By amendment to its application, Colonial advises that on July 11, 1980 Colonial determined it would not be possible to reach agreement with the holders of the restricted stock on the exchange prior to the proposed public offering. Colonial now proposes to defer action on the exchange pending financial simplification or recapitalization of the system.

Colonial has proposed to the Trustees that they take action to bind themselves and their successors irrevocably not to exercise their discretion under the agreements relating to the dividend restriction to relax the restriction in any fiscal year in which annual earnings exceed certain specified amounts and $1.32 in dividends has been paid to the unrestricted shares. The dividend restriction would continue without relaxation with respect to the $.87 a share, in each fiscal year, of common dividends between $.45 a share and $1.32 a share. The restricted stock would continue to share on a parity with the unrestricted shares in the first $.45 of common dividends and in dividends above the $1.32 level. The unrestricted stock would continue to receive all common dividends in a fiscal year exceeding $.45 until it has received $1.32 a share.

Action on the proposed exchange of restricted shares is deferred until further notice.

Colonial is seeking authorization to raise approximately $7,000,000 by a negotiated public offering of additional common stock. The net proceeds from such sale would be invested in new common stock of Lowell and Cape Cod. It is anticipated that Lowell and Cape Cod will issue and sell to Colonial up to 450,000 shares and 500,000 shares of common stock respectively. The number of shares and price per share cannot be established until the net proceeds from the sale of Colonial common stock can be determined and until the Massachusetts Department of Public Utilities ("DPU") has authorized the price per share at which the subsidiaries can sell common stock to the parent. The proceeds from the sale will be used by Lowell and Cape Cod to repay indebtedness incurred for or to reimburse Lowell and Cape Cod for expenditures made for properly capitalizable additions and extensions to plant and property. The terms of the public offering and the subsidiary issues will be supplied by amendment.

Colonial has outstanding $7,376,000 principal amount of 11% Notes due March 1, 1987 held by two insurance companies. In order to facilitate the public offering of its common stock, Colonial has negotiated with the holders of the Notes a revision in the dividend restriction imposed by the Note Agreement dated March 29, 1974 as heretofore amended. The Note Agreement now limits dividends on common stock and purchases, redemptions or other retirements of capital stock (not including sinking fund redemptions or preferred stock) and other distributions to the sum of $500,000 plus 50% of net income during the year 1978 increasing at the rate of five percentage points a year to 75% of net income during calendar years 1983 and thereafter. The amendment will change that restriction to an amount equal to 90% of net income from January 1, 1980 to the date of payment, taken as one accounting period. No other provision of the Note Agreement will be changed.

Colonal requests exception from the competitive bidding requirements of Rule 50(b) pursuant to paragraph (a)(5) with respect to the issuance and sale of its common stock to the public. It states that the size of the issue, the size of the company, and the fact that it is relatively unknown in the securities markets make it unlikely that the procedure specified in Rule 50(b) would produce competitive bids for the securities offered. Colonial proposes to immediately negotiate with underwriters. It may do so.

The fees and expenses incurred or to be incurred in connection with the proposed transactions will be filed by amendment. The DPU has jurisdiction over the proposed issue and sale of common stock by Lowell and Cape Cod. No other state or federal commission other than this Commission has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than August 25, 1980, request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission shuld order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants, at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as

it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act (except that jurisdiction will be reserved as to the exchange transaction), or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof, may order a hearing thereon or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission by the Division of Corporation Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-23564 Filed 8-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17027/July 30, 1980; File No. SR-NASD-80-13]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 18, 1980, the above-mentioned self-regulatory organization ("SRO") filed with the Securities and Exchange Commission a proposed rule change as follows:

SRO's Statement of the Terms of Substance of the Proposed Rule Change

The Association proposes to delete Sec. 8 and to renumber current Sec. 9 as new Sec. 8 of Article III, Section 33, Appendix E to the Association's Rules of Fair Practice.

SRO's Statement of Purpose of Proposed Rule Change

The purpose of the proposed rule change is to eliminate restrictions on opening transactions in deep out-of-the-money options by public customers, member firms and their associated persons consistent with a recommendation of the SEC's Special Study of the Options Markets. As noted in the Special Study, the restricted options rule inhibits pursuit of relatively conservative investment strategies by public customers and options professionals and can cause pricing inefficiencies and loss of liquidity. In addition, the regulatory concerns which underlie the rule—that unsophisticated investors might be attracted to out-of-the-money options because of the low premiums involved—have been effectively addressed through the recent implementation of new rules and procedures respecting customer account approval, supervision of accounts and suitability.

SRO's Statement of Basis Under the Act of Proposed Rule Change

Section 15A(b)(6) of the Act, which applies to registered securities associations, provides in pertinent part that the rules of the Association be designed to promote just and equitable principles of trade and to protect investors and the public interest. Accordingly, the proposed amendments are consistent with the requirements of the Act.

Comments Received From Members, Participants and Others on Proposed Rule Changes

No comments were solicited or received with respect to the proposed rule change.

Burden on Competition

The Association believes the proposed rule change imposes no burden on competition. In fact, it removes the potential burden faced by dual members of the Association and an options exchange who would, absent such an amendment, be compelled to abide by non-uniform standards with respect to transactions in out-of-the-money options.

On or before September 9, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 26, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

July 3, 1980.

[FR Doc. 80-23563 Filed 8-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17029/July 30, 1980; File No. SR-NYSE-80-30]

New York Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975, notice is hereby given that on July 22, 1980, the above-mentioned self-regulatory organization ("SRO") filed with the Securities and Exchange Commission a proposed rule change as follows:

SRO's Statement of Terms of Substance of Proposed Rule Change

The proposed technical Rule change to Rule 351(a)(10) is made to clarify the intent of the Board of Directors of the New York Stock Exchange, Inc., in originally adopting the Rule at its October 4, 1979 meeting. No further Board action or action by the membership is required.

Text of the proposed Rule change follows: New language italicized.

Amendment to Rule 351 Reporting Requirement

(a) Each member not associated with a member organization and each member organization shall promptly report to the Exchange whenever such member or member organization, or any member, allied member or registered or non-registered employee associated with such member or member organization:

* * * * *

(10) Is the subject of any disciplinary action taken by themember *or member organization* against any of its associated persons involving suspension, termination, the withholding of commissions or imposition of fines in excess of $2,500, or any other significant limitation on activities.

SRO's Statement of Purpose of the Proposed Rule Change

On November 2, 1979 the New York Stock Exchange, Inc. filed certain Rule

changes (SR-NYSE-79-45) with the Commission in response to the Options Study. These Rule changes, together with Amendment #1 to the filing (March 11, 1980), were approved by the Commission on March 26, 1980. As part of the aforementioned filing, changes to Rule 351(a)(10) were adopted to provide that action taken by a member against any of its associated persons involving suspension, termination, withholding of commissions or imposition of fines in excess of $2,500 be reported to the Exchange. The stem of this rule applies to a member as well as a member organization. The proposal herein contains a clarifying modification to conform to the stem of the rule by adding member organization to paragraph (10) and alleviate any ambiguity that might exist as to the reporting to the Exchange of any actions taken by a member organization.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 26, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

July 30, 1980.

[FR Doc. 80-23561 Filed 8-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17020; File No. SR-PSE-13]

Pacific Stock Exchange Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on July 21, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

Rule XX—Disciplinary Proceedings Investigations

Sec. 2. The Exchange shall investigate possible violations within the disciplinary jurisdiction of the Exchange, upon order of the Board of Governors, the Executive Committee, *the Ethics and Business Conduct Committee,* or the Floor Trading Committee or upon receipt of a complaint alleging such violations filed by a member or by any person. All such complaints should specify in reasonable detail the facts constituting the violation, including the specific statutes, Exchange Constitutional provisions, Rules, commentaries, resolutions, policies or procedures allegedly violated. No member or person associated with a member shall impede or delay an Exchange investigation with respect to possible violations within the disciplinary jurisdiction of the Exchange nor refuse to furnish testimony, documentary materials or other information requested by the Exchange during the course of its investigation.

A member or person associated with a member is entitled to be represented by counsel during any Exchange investigation.

The purpose of the foregoing proposed rule change is as follows:

The purpose of the adoption of Rule XX is to provide for a uniform and cohesive rule which applies to all disciplinary proceedings at the PSE applicable to members, member organizations, allied members and other associated persons.

The proposed rule will enable the PSE to carry out its responsibilities as a national securities exchange more effectively by providing a written procedure whereby the PSE can enforce compliance by its members and persons associated with its members, with the Securities Exchange Act of 1934, the rules and regulations thereunder, and the rules, policies, and procedures of the PSE. This rule has been adopted to further promote just and equitable principles of trade. The proposed rule relates, specifically, to Sections 6(b)(1) and 6(b)(5) of the Securities Exchange Act of 1934.

Comments have neither been solicited nor received from members, participants or others on the proposed rule change.

The proposed rule change imposes no burden on competition.

On or before September 9, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submission should refer to the file number referenced in the caption above and should be submitted on or before August 26, 1980.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

July 29, 1980.

[FR Doc. 23582 Filed 8-4-80; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

July 29, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Page Petroleum Ltd. Common Stock, No Par Value (File No. 7-5706)
Macmillan Bloedel Limited Common Stock, No Par Value (File No. 7-5707)
Keystone Foods Corporation Common Stock, $.10 Par Value (File No. 7-5708)
General Housewares Corporation Common Stock, $.33 ⅓ Par Value (File No. 7-5709)
Canadian Pacific Enterprises Limited Common Stock, No Par Value (File No. 7-5710)

These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 19, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-23560 Filed 8-4-80; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/310]

Oceans and International Environmental and Scientific Affairs Advisory Committee; Partially Closed Meeting

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will meet at 2:00 P.M. on Thursday, September 25, 1980 in Room 1408 of the Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic affairs in the Department of State will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairman. As access to the Department of State is controlled, persons wishing to attend the September 25 meeting should enter the Department through the Diplomatic ("C" Street) Entrance. Department officials will be at the Diplomatic Entrance to escort attendees to Room 1408.

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will also meet on Friday, September 26, 1980 at the National Academy of Sciences Building, 22nd and "C" Streets, NW. in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552b(c) 1 and 5 U.S.C. 552b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purpose of these discussions will be to elicit views concerning the further development of Antarctic mineral resource policy and to review the results of recent negotiations concerning the conclusion of a Convention for the Conservation of Antarctic marine living resources. This portion of the meeting will include classified briefings and examinations and discussion of classified documents pursuant to Executive Order 12065.

Requests for further information on the meetings should be directed to R. Tucker Scully or Lisle Rose of OES/OPA, Room 5801, Department of State. They may be reached by telephone on (202) 632-3262.

Ann Hollick,
Executive Secretary.

[FR Doc. 80-23497 Filed 8-4-80; 8:45 am]
BILLING CODE 4710-09-M

[Public Notice CM-8/309]

Shipping Coordinating Committee, Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Thursday, September 4, 1980 in Room 1101 West Tower, Waterside Mall, Environmental Protection Agency, 401 M Street, SW., Washington, D.C.

The purpose of the meeting is to review draft US position papers and discuss issues for the Fifth Consultative Meeting of Contracting Parties under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.

Requests for further information should be directed to Ms. Norma A. Hughes, Executive Secretary, Ocean Dumping Committee (WH-548), Environmental Protection Agency, Washington, D.C. 20460. Ms. Hughes may be reached by telephone on (202) 472-2636.

The Chair will entertain comments from the public as time permits.

John Todd Stewart,
Chair, Shipping Coordinating Committee.

[FR Doc. 80-23496 Filed 8-4-80; 8:45 am]
BILLING CODE 4710-09-M

Office of the Secretary

[Delegation of Authority No. 154-1; Public Notice 719]

Foreign Assistance Act of 1961 and Certain Related Acts; Delegation of Authority

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended, 22 U.S.C 2151 *et seq.*, Executive Order 12163 of September 29, 1979, 44 FR 56673, and section 4 of the Act of May 26, 1949 (63 Stat. 111, 22 U.S.C. 2658), State Department Delegation of Authority No. 145 of February 4, 1980, 45 FR 11655, is hereby amended as follows:

1. Section 1(a)(2) is amended by striking out "section 2(a)" and inserting in lieu thereof "section 3(a)".

2. Section 1(c)(1) is amended to read as follows:

(1) Those functions conferred upon the Secretary of State by sections 5(k) and 6(k) of the Export Administration Act of 1979 (50 U.S.C. App. 2404(k), 2405(k)) and the functions under sections 5(f)(4), 5(l) and 6(g) of such Act conferred upon the Secretary of State by section 1-102(b) of Executive Order 12214 of May 2, 1980, 45 FR 29783, relating to negotiations with other countries, subject to the concurrences required by the Department of State Circular 175 Procedure.

3. Sections 2 and 3 are redesignated sections 3 and 4 respectively, and new section 2 is inserted to read as follows:

Sec. 2. *Functions Delegated to Other Agencies*

The functions conferred on the President by section 620(s) of the Act are hereby delegated to the Director of the United States International Development Cooperation Agency, who shall exercise such functions in consultation with the Under Secretary of State for Security Assistance, Science and Technology.

4. Section 3(d) is amended by striking out "to any officer of the Department of State".

Actions within the scope of this delegation and any redelegations hereunder heretofore taken by the officials designated in such delegation of

redelegation are hereby ratified and confirmed.

Dated: July 15, 1980.

Edmund S. Muskie,

Secretary of State.

[FR Doc. 80-23265 Filed 8-4-80; 8:45 am]

BILLING CODE 4710-07-M

TENNESSEE VALLEY AUTHORITY

Public Utility Regulatory Policies Act of 1978 and the Tennessee Valley Authority Act of 1933; Proposed Determinations on Ratemaking Standards

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of proposed determinations on ratemaking standards being considered.

SUMMARY: TVA has developed proposed determinations on the ratemaking standards set out in the notice published in the Federal Register on December 27, 1979. Comments are invited from interested persons and the comments will be considered in making final determinations regarding these standards. The standards include those listed in section 111 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617), and one other ratemaking standard. The standards have been evaluated on the basis of their effect on conservation of energy, efficient use of facilities and resources, and equity amony electrical consumers, and the objectives and requirements of the TVA Act.

DATES: Comments in writing must be received by 5 p.m., September 19, 1980, to be assured of being considered. An oral comment session will be conducted on September 30, 1980.

ADDRESS: Written comments should be sent to Robert F. Hemphill, Jr., Ratemaking Standards Hearings, Tennessee Valley Authority, 540 Market Street, Chattanooga, Tennessee 37402.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 Commerce Avenue, EPB 20, Knoxville, Tennessee 35902, (615) 632-4402.

Procedures: On September 30, 1980, the TVA Board will conduct an oral comment session on the proposed determinations in Room B32, TVA's West Tower, 400 Commerce Avenue, Knoxville, Tennessee, beginning at 9:30 a.m. (EDT). Any person who wishes to offer comments on the proposed determinations during this session is requested to notify Dawn S. Ford.

After further consideration following review of public comments on the proposed determinations, including those received during the oral comment session, the TVA Board will make its final determinations as to the standards. The final determinations will be published in the Federal Register. All comments received from the public and the final determinations will be placed and made available to the public at selected public libraries and at the following TVA locations:

Appalachian District Office, TVA, 200 Brookvale Building, Knoxville, Tennessee 37902.

Central District Office, TVA, 1719 West End Building, Nashville, Tennessee 37203.

Kentucky District Office, 115 Hammond Plaza, Hopkinsville, Kentucky 42240.

TVA, 1978 Southern Avenue, Memphis, Tennessee 38109.

Southeastern District Office, 1709 S. Lee Highway, Cleveland, Tennessee 37311.

Western District Office, TVA, First Tennessee Bank Building, North Branch, Fourth Floor, 620 Old Hickory Boulevard, Jackson, Tennessee 38301.

Mississippi District Office, TVA, 1014 North Gloster Street, Tupelo, Mississippi 38802.

Alabama District Office, TVA, 501 First Federal Building, Muscle Shoals, Alabama 35660.

TVA, 179 Charlotte Street, Asheville, North Carolina 28801.

TVA, Chamber of Commerce Building, 524 Holiday Avenue, Dalton, Georgia 30720.

TVA has made arrangements to engage independent specialists in economics, statistics, and other disciplines relevant to ratemaking to assist consumers in effectively participating in this proceeding. Inquiries concerning the availability and scope of such assistance should be directed to Dawn S. Ford.

SUPPLEMENTARY INFORMATION: Of the standards being considered, the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617) (PURPA) required that TVA consider standards 1-6. Standard 7 is an additional standard being considered by TVA. Data, views, and comments were requested from the public on the standards.

Public hearings, with both morning and evening sessions, were conducted at five locations throughout the area in which TVA and the distributors serve. In addition to the notice in the Federal Register on December 27, 1979, which set out the standards, news releases describing the standards and providing information as to the time and location of the hearings were furnished to the news media throughout the region. Also, advertising providing notification of the hearings and the standards being considered was placed in newspapers in the vicinity of each of the hearings.

Prior to the hearings a series of five public workshops on ratemaking issues was conducted across the region, and arrangements were made at TVA expense for independent specialists in the ratemaking field to assist members of the public to participate effectively in the hearings. A TVA Staff Report, describing and evaluating the standards in light of available data, was also prepared and made available to the public.

TVA's consideration of, and the determinations to be made concerning, the ratemaking standards are being carried out pursuant to the provisions of PURPA, under which TVA is identified as the regulatory authority for electric utilities over which TVA has ratemaking authority, and the Tennessee Valley Authority Act of 1933, 48 Stat. 58, *as amended*, 16 U.S.C. 831-831dd (1976).

Proposed Determinations: The standards have been considered in light of the record developed during proceedings on the standards. TVA recognizes the importance of and concurs in the purposes of conservation of electrical energy, efficiency in the use of facilities and resources, and equitable rates as described in PURPA for the standards being considered under that act. The appropriateness of the standards to carry out these purposes as set out in PURPA were considered in reaching the proposed determinations below. The objectives and requirements of the TVA Act were also taken into account.

The proposed determinations made herein reflect the judgment of the majority of the TVA Board members as to the most appropriate course of action at this time. Director Clement has not taken a position on these determinations preferring instead that public comments be obtained on staff recommendations prior to the publication by the Board of proposed determinations. The proposed determinations follow.

Standard 1—Cost of Service

I. Standard Under Consideration

Cost of Service—Rates charged for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the cost of providing electric service to such class.

II. Observations

Consideration of this standard has been made in light of the principles set out in section 115(a) of PURPA that the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods which shall permit identification of differences in cost-incurrence attributable to (1) daily and seasonal time of use and, (2) differences in customer, demand, and energy components of cost. Section 115(a) further provides that entities prescribing such methods shall take into account the extent to which total costs are likely to change if (a) additional capacity is added to meet peak demand relative to base demand and (b) additional kilowatt hours of electric energy are delivered to electric consumers. These costs are generally referred to as marginal costs, as contrasted with average or embedded costs.

Standard 1, Cost-of-Service, was practically uniformly supported in the Record. There was, however, considerable difference of opinion as to whether fully allocated average embedded (accounting), or marginal costs should be used for rate design. TVA has had experience with both methodologies.

Marginal cost pricing is now being advocated by some to achieve economic efficiency or efficient allocation of society's resources. According to economic theory, efficient utilization of resources is achieved when price, which represents society's value of the last unit consumed, exactly equals marginal cost, the opportunity cost or the value of the resources used in producing that unit.

The basic concept of marginal costs was recognized by TVA in the 1930's. The fact that marginal costs were less than average embedded costs was reflected in the rate structures used by TVA and its distributors. In past decades, usage of electricity was too small to realize economies of scale available from increased use of electric service. TVA used a combination of average embedded and marginal costing concepts to design rates that would encourage consumers to increase consumption up to a level that would be served more efficiently. As usage increased, average costs decreased and the average rate to consumers also decreased.

Today, the cost-curve for power production is different—it is going up rather than down—and investments and expenditures made to meet additional loads raise rather than lower embedded costs.

Major problems are encountered, however, in applying marginal cost pricing to the current situation. One major practical problem is that pricing all sales of electricity at marginal cost will result in revenues which are higher than the revenue requirement needed to meet the embedded costs incurred by the electric system. The TVA Act specifies that power shall be sold at rates that are as low as are feasible. Since marginal costs currently exceed average costs, too much money would be collected using a pure marginal cost rate.

Several methods were suggested for reconciling the revenue difference, but each suffers from theoretical or practical problems in application. One approach would be to charge the higher marginal costs to consumers who are more likely to respond by changing consumption and reduce rates below marginal costs to consumers who are unable or unwilling to change their consumption, whatever the price. This approach is more in line with the economic efficiency argument since the amount of electricity consumed is closer to that which would be consumed under pure marginal cost pricing. This method would be difficult to apply, however, because it requires more detailed information on demand elasticities than can now be obtained.

Another method suggested would be to use marginal costs and then reduce the rates components in each class enough to meet the revenue requirement. Although more practically appealing, it is not clear that such rates would promote more efficient use of electricity. There would be a loss in the accuracy of the price signal from rates developed by this method, especially where they do not reflect different costs for different times of use and when consumers are billed only on a kWh basis.

Because of these problems associated with marginal cost pricing, marginal costs should not be the basis for determining TVA's revenue requirements. Average embedded costs were generally endorsed for determining TVA's total revenue requirements and they are more in keeping with the requirements of the TVA Act. Moreover, it is believed to be appropriate to continue to use average embedded costs for determining revenue requirements for each class of service.

Marginal costs are, however, an appropriate tool in designing rates in keeping with TVA's traditional use of marginal costs to shape the design of rates to properly reflect cost conditions. Revenue requirements for each class of service should be determined by average embedded costs. But marginal costs should be taken into account in the rate structure within the group to aid in the design of rates which reflect the true costs being imposed on the power system. Such rates will not only be equitable but will serve to encourage consumers to take actions contributing to efficient use of electric power facilities and resources in the TVA region.

Both long-run and short-run marginal costs should be considered in order to gain a full understanding of the current and future capacity situation and how costs are likely to change in the future. The decision on whether to reflect short- or long-run marginal costs through rates may vary depending on the particular cost and capacity circumstances. Studies and refinements of marginal costing techniques should be continued in developing methods most appropriate for the TVA system.

When the change in total cost associated with producing one more unit of electricity is considered in rate design on a time-differentiated basis, system benefits may be realized even if rates do not precisely track these costs due to a predetermined revenue requirement. Reflecting the differences in costs between peak and offpeak hours is important. Shortrun marginal costs seem particularly appropriate from a practical point of view for designing time-of-day rates because they reflect the cost of producing additional energy at various times of the day.

It is recognized that it is possible to design time-of-day rates utilizing only average embedded costs. However, the hourly change in embedded average costs in most cases would be much less apparent than the equivalent change in marginal costs, since the cost of baseload units would be averaged in with higher cost peaking units during peak hours. Thus, time-of-day-rates which reflect the cost of providing additional energy will provide more incentives for efficient utilization of resources than time-differentiated rates based on average embedded costs. In addition, time-of-day rates reflecting marginal costs are appropriate for use in conjunction with cogeneration, load management, and other types of dispersed power production.

The application of this standard will enable TVA to adhere to the practice of having rates reflect costs of service. TVA, however, under PURPA is required to determine, after an evidentiary hearing, whether a lifeline rate (a rate which provides certain service at less than cost) should be implemented for residential consumers. As discussed herein, TVA believes that rates reflecting cost of service and

designed to encourage conservation are the most effective at helping to achieve the desired purposes. Unless the hearing on lifeline rates reveals something different. TVA on the basis of existing information does not believe that as a matter of policy it would be disirable on the TVA system to disregard costs and use lifeline rates. The determination on this matter must, of course, be made following the required hearing.

In summary, embedded costs should be continued as the basis for determining class revenue requirements. However, marginal costs are an appropriate tool to be used in the design of retail rates. The proper combination of both types of costs should lead to more efficient utilization of electric power facilities and resources, conservation of energy, and equitable rates by reflecting, through the rate structure, the costs being imposed on the TVA system.

While those commenting generally agreed with the methods.used by TVA in its fully allocated average embedded cost studies, several participants questioned the adequacy of the coincident peak methodology for allocating demand costs and at least two additional methods were suggested, including the average and excess mehtod and the 12 month average allocator method. Each of the general accepted industry methods is a reasonable approach and the specific method used should depend on the particular circumstances of the individual electric system. In the case where a utility's maximum annual peakload repeatedly occurs in the same season (usually winter or summer) and is significantly greater than in other months so as to be a controlling factor in system capacity planning, there is good argument for use of the coincident peak for allocating demand costs. Historically TVA's annual peak load has occurred in the winter, and planning to meet future winter loads has been a major factor in power supply planning. However, load and cost circumstances appear to be changing (i.e. the differential between the summer and winter peak loads is diminishing since the summer peak is growing at a faster rate than the winter peak), this may suggest a change in cost allocation methods in the future.

Several questioned whether the Chattanooga Load Research data should be used for determining consumer load characteristics for the entire TVA system. TVA presently has underway an expanded load research program that will provide substantial additional data on system loads. When this program is fully implemented, TVA's load research data base will consist of over 4,000 points on several widely dispersed distribution systems. Until the program is operational, the Chattanooga data, interpreted by appropriate weighting techniques, provide the best information available on consumer load patterns.

The Record indicated that under the present rate structures there have been significant disparities in the level of margin being received from the several service classifications. This has been the cumulative effect of the frequent adjustments to the rates for fuel and other cost increases that have occurred since the last rate structure change in 1977. The Record supports a return to a more uniform level of return from the several service classification. However, as the Record indicates, it is reasonable to have some margin variations among the classes of service to reflect cost differences caused by variations in the supplier's risk in providing service. Thus, this cost element will be taken into consideration in moving toward more equitable margin levels.

III. Proposed Determination

It is appropriate to implement the standard.

In implementing the standard, TVA will from time to time prepare fully allocated average embedded and marginal cost-of-service studies. The results of the fully allocated average embedded cost studies will be used in helping to determine the amount of revenues to be collected from each consumer class as well as being a factor in establishing rates pursuant to TVA's ratemaking responsibilities under the TVA Act. The demand allocator most appropriate at the time the study is conducted will be used for fully allocated average embedded cost studies. Variations in system costs by time of day determined from the marginal cost studies will also be used in establishing rates.

Standard 2—Declining Block Rates

I. Standard Under Consideration

Declining Block Rates—The energy component of a rate, or the amount attributable to the energy component in a rate, charged for providing electric service during any period to any class of electric consumers may not decrease as kilowatthour consumption by such class increases during such period except to the extent that the costs to the TVA system of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

II. Observations

Residential—Residential consumers on the TVA system are currently billed under inverted rates in almost all cases, and thus this standard does not apply to this group. One participant did recommend adoption of a flat rate for these consumers. As indicated in the TVA Staff Report, implementation of flat rates for residential consumers could in fact lower the cost of additional energy for larger residential consumers, which might encourage them to increase consumption. Therefore, the current rate structure as revised to reflect the seasonal pattern of use will be maintained for all residential consumers.

Commercial and Industrial—The elimination of declining block rates for general power consumers on the TVA system was generally supported by those commenting. The majority of those opposed to the continued use of declining block rates believe that this structure fails to reflect the true nature of the cost of providing electricity. The TVA Staff Report clearly shows that energy costs do not decrease as consumption increases and no evidence was presented in the Record indicating a cost basis for declining energy charges when these charges include only energy costs. Therefore, these rates result in price signals which consumers perceive as promotional, thereby encouraging excessive consumption.

One participant maintained, however, that declining block rates approximately track costs for smaller users when both fixed and variable average costs are collected in a single charge per kWh. This participant went on to state that declining block rates can be inequitable in that the effect of varying levels of load factors on costs is not reflected in the rate and that this deficiency can be remedied by eliminating declining block rates and moving to a 3-part rate structure which collects fixed and variable costs through separate demand, energy, and customer charges. However, this method does entail higher metering costs.

While there was little substantive opposition to the elimination of declining block rates, there was a great deal of discussion about their proper replacement. The Record shows that rate forms other than declining block should be implemented if they are found to track costs adequately, and encourage conservation and efficiency while promoting equity. There are cost-based rate alternatives, specifically 3-part rates with flat energy charges for consumers who are demand metered, flat energy charges for consumers billed

only on the basis of kWh and time-of-day rates, that can be implemented which meet these criteria.

One consumer believed that declining block rates should be replaced by inverted rates for all consumers. For commercial and industrial consumers, however, an abrupt movement from declining block rates to inverted rates could cause rapid increases in electric bills for a number of consumers and some attendant economic disruption. Furthermore, it is by no means clear that inverted rates reflect the marginal costs of TVA's nuclear plants now under active construction.

III. Proposed Determination

It is appropriate to implement the standard.

The rates for existing residential consumers will continue to have their present inverted block structure as revised. For commercial and industrial power consumers, with demands less than 50 kW and 50–1000 kW, the current declining block energy charges will be eliminated and replaced with flat charges over three years. Additionally, commercial and industrial power consumers with demands less than 50 kW, who are currently not demand metered, will be continually monitored for possible application of a 3-part rate.

As discussed more fully in Standard 3, Time-of-Day Rates, time-of-day rates will be introduced for all consumers with demands greater than 50 kW within five years. Additionally, time-of-day rates will be applicable for all new residential and small commercial (less than 50 kW) facilities in two years.

Standard 3—Time-of-Day Rates

I. Standard Under Consideration

Time-of-Day Rates—The rates charged for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the cost of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class.

II. Observations

Consideration of the standard has been made in light of the principle set up in section 115(b) of PURPA that a time-of-day rate should be considered cost-effective with respect to each class if the long-run benefits of such rates to the system and the electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates.

The concept of time-of-day rates was broadly endorsed in the Record. In addition to encouraging conservation of energy and efficiency of use of facilities and resources, it was pointed out that equity in rates is enhanced in that consumers are being charged the costs of providing electric power that the system incurs at the time of their use. Moreover, such rates make consumers aware of the cost consequences of their consumption decisions, and thus provide them the opportunity to change consumption patterns and reduce utility bills.

In commenting on the methodology used by TVA in designing one of the time-of-day alternative rate cases presented in the TVA Staff Report, one participant expressed the views that the rating periods designated do not track costs effectively, energy costs do not vary significantly on the TVA system, and the assumptions regarding marginal units are questionable. In addition, the participant asserted that when any component of a rate is "solved for", that is, mathematically computed from other billing determinants to meet a class revenue requirement, the resulting rates are not based on costs.

With regard to the time-of-day rating periods, the TVA Staff Report explained that these periods designated were selected by analyzing the load curves for the peak days of winter and summer on the system. As discussed below under Standard 4, seasonal load curves have very distinct and characteristic shapes on the TVA system. Given that costs vary with loads, daily peak periods defined by the manner presented in the TVA Staff Report are representative of the daily periods of greatest cost incurrence throughout a given season. This is true even if each hour during a rating period does not fit the criterion specified for a peak day (which was evidently this participant's interpretation of the methodology).

The TVA Staff Report also discusses the variability of energy costs over the day and describes the manner in which TVA dispatches generating sources to meet demands for electricity during the day and the cost of these sources. Additionally, the long-run marginal energy costs for TVA are presented in the TVA Staff Report. Although the variations in these costs are not as great as those experienced by some power systems due to TVA's relatively high load factor and use of hydro generation for peaking purposes, they show definite variation by time-of-day. Moreover, if the shape of TVA's load growth is examined, as distinguished from existing loads, the variation in cost-of-service by time-of-day is even more pronounced.

The generating units used to determine the marginal costs which form the basis of the rate in question were determined from TVA's cost compendium for generating units which determines how generating units are economically dispatched to meet the load. Many factors affect the marginality of units on an electrical energy supplier's system. Among these factors are planned as well as forced outages, the type of generating plant, level of loading, and the quality of fuel. It is recognized that the same units are not always the system's marginal units, but the method employed to calculate these costs is reasonable and appropriate for the present. TVA will continue to evaluate and refine methods for determining offpeak as well as onpeak costs.

The rate alternative specifically questioned by this participant is an example of the way in which marginal costs can be used in rate design. As discussed above under Standard 1, marginal cost analysis is a useful tool for rate design even though the resulting rates do not exactly match these costs because of revenue constraints. When other components of a rate are set at marginal cost, as is the case with the time-of-day rate in question, using a revenue requirement limitation to determine a final component is one method of revenue reconciliation. As pointed out in the TVA Staff Report, traditional embedded costing techniques also require a certain amount of analytical judgment to apportion certain costs; however, this does not invalidate their usefulness. Traditional rate designs are no more likely to be theoretically perfect than are innovative designs.

It is useful to recall that rate designs now considered traditional were quite innovative when TVA first put them into effect. Rate designs must reflect the present and future shape of TVA's costs, not the past, if TVA is to be true to the statutory mandate to provide electricity to its consumers at the lowest feasible price in the future

Rate design should be guided by the most rigorous cost analysis possible. However, it was suggested in the Electric Utility Rate Design Study Reference Manual and Procedures for Implementing PURPA that the intent of PURPA was not solely that variations in time-of-day rates exactly reflect the time-of-day variations in costs of providing service The intent was to structure rates so as to lower the peaks and fill the valleys of load curves and in so doing save on expensive peaking generation and support the three purposes of PURPA

Potentially, time-of-day rates will offer considerable benefits for both TVA and its consumers, a fact recognized by some participants. One obvious benefit to consumers is the opportunity to make rational choices of consumption levels during any period. If consumption or demand is shifted from onpeak to offpeak periods, then consumers can realize savings on electric bills.

Insofar as these rates track costs more closely than non-time-variant rates, consumption is priced more accurately, thus promoting load management and solar installations which reduce more costly onpeak consumption as well as other more economical conservation efforts.

Additionally, if consumers repsond to time-of-day rates as anticipated, the amount of additional capacity needed would be reduced, thus helping to hold down the rising costs of power. The magnitude of this benefit will be contingent upon the degree of consumer response to these price signals.

There is currently some disagreement among those knowledgable about the electric utility industry concerning the size and timing of consumer responses to price changes, and some participants questioned the estimates used by the TVA Staff. The results of many experiments are available or are currently being analyzed to determine consumer response to time differentiated pricing. These studies focus primarily on the short run response of residential consumers, but the greatest value from time-of-day rates is likely to come from long-term responses by both residential and general power consumers.

Most data suggests, however, that time-of-day pricing will have some impact on reducing onpeak consumption and thus reducing the cost of providing electric service. It is generally agreed that long-run response to correct price signals will be greater than the short-run response. While caution should be used in evaluating such data, TVA should proceed with judicious implementation of time-of-day pricing while conducting additional research for accurate quantification of consumer response. As additional data become available, they will be utilized to evaluate and modify, if necessary, such rates as have been implemented.

It is useful to recall that no such data was available to TVA in the early years when it implemented its promotional rate design. TVA's innovation was successful not because it tracked costs precisely and accurately predicted consumer response, but because it generaly reflected the downward slope of the cost curve.

The TVA system is currently a high load factor system, and the existing mix of power generating plants has been installed to serve such a system. The TVA construction program is devoted entirely to large nuclear baseload generation units with high capital costs, but low operating costs. The power system of the late 1980's and 1990's will function at the lowest cost for all consumers only if system load factor remains high. It seems both prudent and appropriate, therefore, to begin taking measures such as the phased implementation of time-of-day rates whose long-term effect will be to shape demand into a profile that can be most efficiently served.

One consumer believed that since time-of-day rates encourage installation of residential storage devices which may consume more energy than conventional space conditioning systems, time-of-day rates are promotional. Rather than being promotional, this tends, as suggested in the Record, to shift consumption from peak to offpeak periods. This shift not only provides cost savings by reducing the amount of additional capacity that will be needed, but also in many cases to help conserve scarce resources. On the TVA system this could mean less dependence on oil, purchased power, and inefficient coal-fired units for peaking purposes and greater dependence on more efficient coal and nuclear baseload units.

Some suggested that there are socio-economic costs to consumers which result from the implementation of time-of-day rates. It was argued that for residential consumers these costs may include the inconvenience associated with deferring to offpeak periods chores, meals, and leisure time activities requiring the use of electricity. Additionally, industrial firms, trying to minimize costs, may reschedule production activities.

Time-of-day rates will not necessarily require any changes in lifestyle. Consumers who are unable or unwilling to use more power offpeak would simply continue to use power onpeak. However, these consumers would pay the approximate cost imposed on the system to serve them, and efficiency and fairness for all consumers would be advanced. If time-of-day rates are implemented concurrently with the application of load management techniques, then benefits to the power system are enhanced and consumers are assisted in shifting demands to off-peak periods with a minimum of inconvenience.

One participant recommended a methodology for determining the net benefits or costs of time-of-day rates which indicated even greater or costs of time-of-day rates which indicated even greater benefits than those shown in the TVA Staff Report. These results, however, may be optimistic when time-of-day rates are not used in conjunctin with load management techniques due to assumptions concerning elasticity and the relationship of production costs to actual rates. Moreover, it was suggested that cost-effectiveness evaluations of time-of-day rates should attempt to identify incrementally all consumer groups for whom time-of-day rates are cost effective. By the same token, however, evaluation should also reflect the declining marginal system benefits resulting from incremental implementation of time-of-day rates, particularly in combination with load management activities.

Some of those submitting input for the Record indicated that large industrial consumers with high load factors would not be able to respond to mandatory time-of-day rates. It is recognized that some industries may be less able to shift use from onpeak periods than others. This should not, however, preclude such consumers from paying the cost of providing electric power to them at the time of use. A cost-oriented approach has been the guiding principle in TVA ratemaking and reflects fairness and equity to all consumers. Moreover, even with large, high load factor consumers, it is likely that there is some degree of elasticity associated with the demand for electricity. In such case the TVA system could realize considerable benefits from these consumers' adaptations to time-of-day rates.

The total revenue requirement from a group of consumers is not affected by moving from non-time differentiated rates to rates based on time-of-day. while consumers with continuous operations could incur greater costs for onpeak consumption these costs should be largely offset by lower offpeak charges. Therefore, as a whole, large consumers with high load factors should have minimal bill impacts from a carefully designed time-of-day rate. Because very large consumers' understanding of the relationship of electric rates to their use of electricity in operations is substantially more sophisticated than that of the average consumer, this group can respond to time-of-day rates in a rational manner beneficial to both themselves and the TVA system. Moreover, adequate metering for these consumers is currently in place or on order, and thus the system cost of adopting such a rate is minimal.

Most parties commenting on time-of-day rates recommended that they be made available for voluntary participation by the consumer. However, it seems doubtful that the potential benefits to the electric system, and ultimately all ratepayers, would be achieved by voluntary efforts. Faced with a choice of time-of-day versus standard rates, consumers may well analyze existing consumption patterns under both conditions, and only those consumers for whom the time-of-day rate results in a lower bill and no change of use pattern would elect this alternative. The consumers who would benefit system costs by response to a time-of-day rate would be the least likely to choose to use it. The result for TVA and all consumers would thus be a loss of revenue from one consumer and rate increases to all others, with no diminution in system costs.

The cost of implementing time-of-day rates may exceed the benefits for some consumer groups. The metering required for time-of-day rates is considerably more expensive than that required for non-time differentiated rates for most consumers. This factor may make implementation for some groups impractical. Billing procedures may also be somewhat more expensive for most consumers. TVA will not implement time-of-day pricing unless it is cost effective for that particular class of consumer.

Immediate mandatory implementation of time-of-day rates for all residential consumers does not appear to be either cost-beneficial or administratively feasible at this time. The mere physical task of placing time-of-day meters on all consumers' facilities and implementing the billing procedures could conceivably take several years. The extra cost of time-of-day metering must be offset by cost savings realized through shifts in consumption from peak to offpeak periods.

The ability to shift substantial amounts of consumption from peak to offpeak periods, however, is enhanced by various mechanical energy storage devices as discussed below under Standard 6, Load Management Techniques. Installation of such devices in existing structures would require a relatively large capital expenditure since traditional water heaters, spaceheating and cooling equipment are already in place and thus would not likely be cost-effective. Installing such devices as storage water heaters and spaceheating equipment during the initial construction of the structure, however, may be done with minimal additional cost.

At the same time, load management devices may be appropriate for existing dwellings for some consumers. Therefore, time-of-day rates should be available on a voluntary basis for consumers in existing buildings who are also participating in a load management, solar, or other such program which ensures benefits to the power system.

Some suggested that if TVA were to implement time-of-day rates, distributors of TVA power may experience some short run adverse effects. These might include revenue fluctuations caused by a shift of a significant amount of usage to offpeak periods or demand shifts causing distributors to incur new peak loads. The proper design of a wholesale rate schedule should minimize the possibility of such occurrences and will be considered in rate change proceedings with distributors under the provisions of the power contract.

Some of those supporting time-of-day rates do so on the basis that they would be based on average rather than marginal costs. However, as explained in the discussion under Standard 1, Cost-of-Service, marginal costs should be considered in developing such rates.

III. Proposed Determination

It is appropriate to implement the standard to the extent feasible.

Mandatory time-of-day rates will be developed and implemented for all new residential buildings within two years. Optional time-of-day rates will be offered to all residential consumers who are also participating in a load management, solar, or other such program which ensures benefits to the power system. This does not preclude the application of mandatory time-of-day rates for all residential consumers if they become cost effective at some time in the future.

Mandatory time-of-day rates will be developed for all new commercial and industrial facilities within two years. Time-of-day rates will be developed and implemented for commercial and industrial consumers with demands greater than 5,000 kW with existing facilities within a year. Such rates will also be developed and implemented for consumers with existing facilities and demands between 1,000 and 5,000 kW within two years. Mandatory time-of-day rates for general power consumers with existing facilities and with demands between 50 and 1,000 kW will be developed with implementation in 3–5 years.

Standard 4—Seasonal Rates

I. Standard Under Consideration

Seasonal Rates—The rates charged for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class of consumers at different seasons of the year to the extent that such costs vary seasonally for the TVA system.

II. Observations

Rates designed to reflect seasonal variations in cost can help achieve efficiencies in the use of facilities and resources by allowing consumers to make more informed decisions concerning energy consumption. They can also help discourage growth of demand during peak use periods, thus decreasing the need for new generation capacity and helping to conserve capital.

The record shows that most parties commenting on seasonal rates were in favor of the concept of cost-based seasonal rates because of the potential benefits which may be realized both by TVA and consumers where seasonal variations in cost occur. There was also general recognition that there is no significant seasonal cost variation on the TVA system at the present time. The TVA Staff Report contained information on seasonal marginal energy costs per kWh, seasonal average fuel and purchased power costs per kWh for fiscal year 1979, and forecasted capacity requirements. The staff did not find a significant seasonal variation in the overall level of costs.

There are two important aspects of cost variation which need to be taken into consideration, however: variation in the overall level of cost, and variation in the pattern in which cost is incurred. Rate designs traditionally have mostly reflected the overall level of costs. Some of the rate designs being considered under PURPA, such as time-of-day rates, give an increased role to the pattern in which cost is incurred. By tracking the pattern of costs more closely, it is believed that a more efficient use of the generation system will result. This should also encourage investment in load management techniques and dispersed power generation, both of which should lead to more efficient use of facilities and resources.

III. Proposed Determination

It is appropriate to implement the standard.

While there is no significant seasonal cost variation, the TVA system is typically faced with very different daily load shapes in the winter and summer

months. This suggests the need for different sets of onpeak and offpeak rating periods for the two seasons for time-of-day rates. In such case, time-of-day rates will be implemented on a seasonal basis in the TVA region. Similarly rates designed to be used in connection with load management techniques, such as heat storage, will reflect such seasonal variations.

Standard 5—Interruptible Rates

I. Standard Under Consideration

Interruptible Rates—Each industrial and commercial electric consumer receiving TVA power will be offered an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member.

II. Observations

Making available interruptible power promotes efficient use of facilities and resources. The capability to interrupt power use lessens the need for additional peaking capacity and improves system load factor, thereby promoting conservation of capital and lowering system costs. This provides an opportunity for both the consumer utilizing interruptible power and the TVA system, and thus all the ratepayers, to benefit through such cooperation in lowering system costs.

Among those commenting on this standard, the record shows almost universal agreement with the concept of offering interruptible power. There was some difference of opinion concerning which consumer groups should be offered interruptible power. Participants generally believed that interruptible power was effective and useful when offered to large consumers but did not consider it appropriate for the residential and small commercial groups. However, some thought that consideration should be given to making it available to residential consumers.

As the record indicates it is not now feasible to offer interruptible power to all consumers. Since the consumer must be notified before his power supply is decreased, usually by telephoning, only a limited number of interruptions may be effected in a limited time. Interruptions of a few small loads would not provide significant enough demand reductions to make the interruptions beneficial for the system.

However, some load control techniques are now being developed which, it is anticipated, will make it feasible for loads of numerous residential and small commercial consumers to be interrupted at the same time. There are load management techniques such as heat storage and appliance cycling which are discussed below under Standard 6. These require less direct intervention on the part of the power supplier, and so may be applied to large numbers of smaller consumers to obtain effective and significant load control similar to that achieved through interruptible power.

The Record contains comments by some that the credit provided for interruptible power is not sufficiently attractive. One participant submitted a study based on the experience of an interruptible power consumer during 1978 which purports to show that the benefits to TVA derived from load interruption were not adequately shared with the customer. That study was not based on the type of interruptible power arrangements that have been offered by TVA since early in 1979. Moreover, to be accurate, a study of this nature would need to cover the entire interruptible power contract term and not just one year. The credit has been designed so that fair sharing of benefits occurs over the entire contract term, and not necessarily during any one year of the term, when power demand levels may require that power be interrupted at a rate greater than the contract average.

TVA's use of consumers' load factors in calculating the effective interruptible demand permits the credit to reflect the reduced probability that a low load factor consumer's use will be coincident with the time the interruption rights are needed. While this practice resulted in one low load factor consumer questioning the fairness of present interruptible power arrangements, it actually reflects sound cost-benefit principles.

As expressed by some commenting on the standard, interruptible rates should only be offered on a voluntary basis since many consumers cannot efficiently use interruptible power.

III. Proposed Determination

It is appropriate to implement the standard to the extent feasible.

Each consumer, whether served directly by TVA, or by a distributor, will be offered interruptible power on a voluntary contractual basis in amounts equal to or greater than 5,000 kW, with requests for amounts as small as 1,000 kW being considered. The interruptible power arrangements now offered effectively align the credit with the benefits derived from individual consumers and is thus equitable to consumers. Interruptible power arrangements offered by TVA will continue to be reviewed to determine whether revisions would be appropriate because of changing circumstances

Standard 6—Load Management Techniques

I. Standard Under Consideration

Load Management Techniques—Each electric consumer receiving TVA power will be offered such load management techniques as TVA has determined will—

(A) Be practicable and cost-effective.
(B) Be reliable, and
(C) Provide useful energy or capacity management advantages to the TVA system.

II. Observations

As discussed in the TVA Staff Report, TVA has been examining a wide range of load management techniques. Included in these are cycling of air-conditioners, cycling of water heaters, cycling of central heating systems, heat storage systems, and storage water heaters. Each of these techniques, as shown in the Record, is potentially cost-effective for implementation in the TVA region. Many of the technologies under consideration are already in use by various power systems throughout the United States with information available on practicability and reliability. TVA has already initiated the first phase of a program to cycle central air-conditioners. Other technologies have the potential for being benficial to the consumer but require additional development and demonstration before TVA decides on whether they may be made generally available.

Consumer groups, industrial representatives, and power distributor representatives commenting on the standard generally supported the implementation of those load management techniques which prove to be practicable, cost-effective, reliable, and useful.

Comments by various legal services groups supported the implementation of load management techniques but suggested that special attention be given to the development of programs in which low-income consumers could participate directly. These consumers usually cannot afford to own central space conditioning systems, and therefore cannot participate directly in those programs involving the cycling of such systems. However, such consumers may be able to participate in other programs such as a program to control electric water heaters.

The Record also contains comments suggesting that load management techniques should be offered to consumers only on a voluntary or optional basis. This concept of voluntary participation is an integral part of TVA's load management philosophy and has

been incorporated into all existing activities as well as into the planning of those potentially feasible programs discussed in the TVA Staff Report. It is contemplated that load management techniques offered in the future, consistent with the determination set out below, will be on the basis of voluntary consumer participation.

Some comments expressed concern about the use of offpeak rates as incentives to encourage the use of energy storage systems. Such incentives, whether provided in the form of offpeak rates or other programs, should not be provided to one class of customers at the expense of the other classes of customers. It is also recognized that the incentive offered should send the correct long-run price signal so that consumers will not be led to make a capital investment decision based on rate structures or incentives which may later be changed and make the equipment investment uneconomical. Detailed studies undertaken prior to recommendation of specific programs include the evaluation of a wide range of consumer incentives. Determination of cost-effectiveness includes consideration of the short- and long-term costs of any required incentive. Such programs will not be pursued unless the potential benefits of the programs to all consumers of all customer classes exceed these costs, thus, assuring the stability of the incentives over the life of the program.

Another concern expressed about energy storage devices centered around the fact that such devices may actually use more energy than conventional systems. This may be true with many systems. TVA has demonstration tests underway to determine the reliability, efficiency, and cost-effectiveness of several types of heat storage systems. Results obtained from these tests will provide more information about energy efficiency and will be used to perform more detailed evaluations of heat storage techniques. In those cases where storage equipment may use more energy than conventional systems, it is still possible that these systems are advantageous to the power system and the consumer. Such systems may still offer valuable conservation opportunities since the energy used in these devices can be produced in offpeak hours by generating units which utilize coal and uranium fuels rather than expensive imported oil. Thus, the energy used in these storage devices costs less to produce and can be purchased by the consumer at a lower offpeak rate. Although more energy may be consumed, the use of storage devices may be economical for the consumer and the power system and allow conservation of valuable resources.

Some distributors and the TVPPA commented about the involvement of distributors in the implementation of load management programs developed by TVA. It should be noted that the evaluation to determine whether such programs should be offered includes analysis of the impact of the techniques on the distribution system as well as the generation system, thus including consideration of the impact on the TVA system as a whole. Direct load control activities are new cooperative arrangements and may require modifications through time in order to develop the most satisfactory program. For this reason, one of the objectives of TVA's first full-scale control program, the Air-Conditioning Cycling Program, is to work closely with the participating distributors in order to determine the adequacy of the operating procedures, control strategies, and cooperative arrangements. Close coordination and cooperation in this project should generally answer the questions raised about potential negative impacts of load control projects.

TVA is working with distributors, through the TVPPA, on the development of a load management policy, including possible wholesale rate modifications which would take account of noncoincident demands. The formulation of this policy and possible rate modifications should help ensure that both TVA and distributor initiated load management activities are beneficial to the TVA system, the distributor, and the consumer.

III. Proposed Determination

It is appropriate to implement the standard.

TVA will continue its efforts to develop and implement those load management techniques which are consistent with the purposes of PURPA and meet the criteria established in Section 115(c). Programs to implement such techniques shall be offered to consumers on the basis of voluntary participation.

The development and implementation of load management programs which are consistent with the purposes of PURPA can be readily accomplished through cooperative efforts of TVA and the distributors of TVA power. Evaluation to determine whether load management techniques should be offered will include consideration of the impact of the techniques on the distribution system as well as the generation system, thus including consideration of the impact on the TVA system as a whole. Load management activities will be constantly evaluated as they are implemented to determine any institutional changes necessary to make them function with better effectiveness and equity.

Standard 7—Special Additional Charge for New, Electrically Heated or Cooled, Energy Inefficient Homes

I. Standard Under Consideration

Effective six months after the commencement of TVA's forthcoming New Home Conservation Program, a special additional charge will be applied each month to the electric bill rendered for service to each new detached, single-family, electrically heated or cooled dwelling first connected to the system of a distributor of TVA power after the effective date, unless the residence has been surveyed for compliance with the objective standards established under the New Home Conservation Program and been determined to qualify for either a TVA Energy Conservation Award or a TVA Solar Award. The level of the additional charge will be designed to recover from consumers who occupy such energy inefficient residences the additional cost imposed upon the TVA system by reason of failure to adquately weatherize those residences, but the additional charge will be removed upon the implementation of all the cost-effective weatherization measures recommended pursuant to a survey conducted under TVA's existing Home Insulation Program.

II. Observations

As the record shows, new homes in general are not being constructed to incorporate many weatherization measures that would be cost beneficial. For example, of more than 6,000 homes less than one year old surveyed in 1979 through TVA's home insulation program, 20 percent had no attic insulation at all yet the average for older homes is only 15 percent. As data in the record indicates, there are many weatherization measures, such as those included in TVA $uper $aver specifications, that would be cost beneficial to the homeowner through savings in utility costs.

As further shown in the record, weatherization measures conserve energy and help to keep rates lower by reducing operating costs and capital expenditures for future plants. Since TVA's marginal cost of generating electricity exceeds the average cost, energy conservation measures which will reduce the use of electricity provide savings for the power system. Additional generation of electric power

increases TVA's average costs and revenue requirements, which must be recovered through higher electric rates. Needless increases in generation caused by new homes being built without cost beneficial weatherization measures unnecessarily lead to increases in rates for all residential consumers. Furthermore, the investment in additional weatherization will be cost-effective for the consumer occupying the building.

It is recognized that the most cost-effective time to incorporate energy-saving items is during the design and construction of new homes. As indicated in the Record, various States and electric systems in other parts of the country have recognized the value of energy conservation in new homes and have taken steps such as mandatory building standards, discounted rates, and hookup fees to encourage such conservation. In light of the facts that energy-efficient new homes are cost beneficial to their owners and that energy conservation results in rates that are lower than otherwise possible, it is considered appropriate and proper for TVA to utilize electric rates to encourage energy conservation in new homes in this region. This is consistent with and will further the objective of the TVA Act that electric power be sold at rates as low as feasible.

While the record supports the conclusion that the use of electric rates to encourage conservation in new homes can be cost justified and is appropriate for implementation, it is less clear as to the best approach to accomplish this objective. While the standard under consideration would provide for the application of a special additional charge, as reflected by the record, other possible approaches would include use of rate discounts or hookup fees.

A rate discount for utilizing weatherization measures received support by some commenting in the proceedings and was discussed in the TVA Staff Report. Since TVA has offered existing homeowners interest-free financing for installing weatherization measures, a rate discount for their homes could not be justified. This would mean that a rate discount would be limited to new homes, which is not considered desirable.

However, a hookup charge would be the most effective approach for encouraging energy conservation. Purchasers of new homes frequently find it difficult to judge between the relative benefits of purchasing a home with weatherization measures that will bring continuing benefits through savings on utility bills and of purchasing a home at lower cost without such features. A hookup charge would resolve the uncertainty by forcing the home buyer to judge the initial lower price of an energy inefficient home against the initial higher charge to have electricity provided. It seems that the administrative efficiency and the potential effectiveness of the hookup charge leads to its implementation in preference to other approaches that might be followed.

Hookup charges should similarly be effective in helping to assure that energy conservation measures are incorporated in the construction of other types of buildings. Existing codes and those under development, if adopted by the States and stringently enforced, should greatly improve the energy efficiency of new commercial and industrial buildings.

III. Proposed Determination

It is appropriate to implement the following revised standard.

A hookup charge shall be applicable for all new buildings to receive permanent electric service after January 1, 1983. This standard will be implemented as follows:

- A hookup charge, to be paid by the initial applicant for permanent electric service, will apply to all new residential, commercial, and industrial buildings.
- The hookup charge will be designed to recover the costs of implementing the standard and the incremental costs to provide new services to an energy-inefficient building as compared with an energy-efficient building.
- A portion of the hookup charge will be refunded for buildings which meet the following energy-efficiency standards: (A) For new 1- and 2-family detached dwellings the applicable standards will be TVA developed energy efficiency standards or their equivalent. To be eligible for a refund, the new home must be inspected by TVA for compliance; (B) For all other new buildings, the applicable standards will be the State adopted energy-efficiency standards to comply with the Energy Policy and Conservation Act of 1975, (Public Law 94-163) or the ASHRAE 90 standards where no State code is adopted. To be eligible for a refund, the new building must be inspected by a State or local building inspector for compliance with the State law or the design of the building must be certified by a registered architect or engineer for compliance with the applicable standard.

Proposed Policy Statement: In conjunction with its consideration of the above ratemaking standards TVA received comments on its practice of allocating the benefits of low-cost electric power to residential consumers. As a matter separate from the proposed determinations on ratemaking standards, TVA has developed a proposed policy statement on allocation of benefits of low-cost power sources to residential consumers. Comments are also invited on this proposed policy statement, which follows:

Proposed Policy Statement on Allocation of Benefits of Low-Cost Power Sources to Residential Consumers

Background: Level of Low Cost Benefits Allocated to Residential Consumers

Section 11 of the TVA Act requires that power projects "* * * shall be considered primarily as for the benefit of the people of the section as a whole and particularly the domestic and rural consumers to whom the power can economically be made available, and accordingly that sale to and use by industry shall be a secondary purpose * * *." Although not connected with the standards themselves, this practice was discussed in the TVA Report on Ratemaking Standards.

This "preference provision," originally had little bearing on price since there was little cost difference in the sources of hydro power generation, which constituted the TVA system before World War II. It, together with Section 10 of the TVA Act, was used to determine to whom the power would be sold first in the event of a power shortage. This application became less important in 1959 with the addition of Section 15d(h) of the Act, which provided TVA with the mechanism to assure an ample supply of electric power to aid in the physical, social, and economic development of the area. This preference for residential consumers is still applied, however, during emergency power situations when commercial and industrial loads are curtailed first to ensure continued service to residential consumers.

Beginning in 1939, TVA acquired the generating and transmission properties of the private utilities in the area and in the late 1940's and early 1950's, the TVA system began a transformation from its original character of a predominately hydroelectric system to a predominately coal-fired system. The higher costs of thermal generation required TVA to increase its rates and those charged by its distributors. Beginning in 1952, the above quoted preference clause has resulted in tangible price benefits for

residential consumers.[1] TVA rates have been designed to preserve the benefits of the low-cost hydroelectric system for the residential class and the higher cost of steam power plants has been borne by the commercial and industrial consumers. Benefits from seasonal diversity capacity arrangements developed in the 1960's have also been allocated to the residential class since their seasonal load patterns allowed TVA to enter into these arrangements. As TVA phases out these diversity capacity arrangements, because of changes in the system's seasonal load patterns, their benefits to the residential consumers will also be phased out over the next few years.

In fiscal year 1979, hydro satisfied approximately 40 percent of the energy requirements of the residential class; the balance of the residential energy cost is based on the average of all remaining fuel costs. Seasonal exchange and hydro capacity are equal to approximately 44 percent of residential demand, and the remaining capacity cost of supplying the residential load is based upon the average demand cost for the remainder of the system. If the low-cost allocation is limited only to hydroelectric generation, these benefits, as a percentage of residential class revenue requirements, may well decrease over time as the residential class grows and the hydroelectric generation meets an ever decreasing portion of the class' total energy requirements.

As a result of this allocation which has been in existence for many years, the revenue requirement for the residential class is presently decreased by 14 percent and the revenue requirement for the commercial and industrial classes is increased by an average of 11 percent.

The preference clause of Section 11 by its language is not limited to the hydro power—it refers to all of TVA's power projects. The issue then is whether TVA should also allocate to residential consumers the lower cost nonhydro generated power such as the Browns Ferry Nuclear Plant which has much lower than average costs. If the allocation were to be expanded to increase the covered portion of residential energy consumption, residential class revenue requirements would be reduced but revenue requirements to the other classes would naturally increase by the same amount.

[1] Hydroelectric generation is allocated both to the energy and the capacity requirements of the residential class. Seasonal diversity exchange capacity is allocated to the residential coincident peak load but is not considered to be a source of energy.

In recent hearings concerning the standards discussed in the TVA Staff Report mentioned above, public comment was also received on the allocation practice.

Several participants agreed with the current practice, but opposed any similar allocation of additional sources of low cost power. Although against allocation of other low cost power, the TVPPA did not question the appropriateness of the current practice, although it did question the manner in which TVA allocates the benefits of seasonal exchange. Additionally, four distributors were against extending the allocation of other types of low cost power to the residental class on the ground that this action would harm conservation efforts. One distributor suggested phasing out the existing practice over a period of 5 to 10 years.

Several industrial consumers and industrial organizations were opposed to TVA's allocation practices. One public consultant called for the continuance of the allocation as it has been established by TVA to benefit residential consumers. The point was made that allocation of low cost hydroelectric power and the benefits from seasonal exchange of power with other systems for the exclusive use of the residential group is consistent with the provisions of the TVA Act.

The TVA Act places on TVA a responsibility for promoting industrial and economic development of the TVA region by maintaining competitive rates for commercial and industrial consumers. The preamble of the TVA Act specifies that one of the principal purposes of TVA is to provide for industrial development of the Valley and Section 15d(h) charges TVA with the "responsibility for * * * economic development of the area * * *." This purpose is echoed in section 23. Economic develoment has historically been an important part of TVA's purpose and activities. Since 1933, the economic and social well being of the region has advanced dramatically; however, per capita income still remains at 80 percent of the national average and at less than half the national average in many counties. Thus, there still remains much room for improvement of the regional economy, and industrial development is an important means for promoting this. Industrial growth is likely to occur more slowly than othewise if industrial rates are in fact noncompetitive or are perceived to have been made noncompetitive by additional allocations of low cost power to residentail consumers at this time.

Findings and Conclusions: Level of Low-Cost Benefits Allocated to Residential Consumers

TVA's practice of allocating the benefits of the low-cost hydroelectric generation has been and continues to be consistent with carrying out the provisions of Section 11 of the TVA Act. Such an allocation is sanctioned by law and by more than 40 years of practice.

Thus, TVA has adopted the following policy:

TVA is authorized by Section 11 to allocate the lowest cost power from all of its projects to the residential consumers. However, the overriding purpose of the Act is to improve the economic well being of Valley citizens and therefore this preference to residential consumers should not be expanded beyond the hydropower if doing so will materially affect economic growth. TVA therefore reaffirms the current practice of allocating the benefits of the low cost hydropower to the residential consumers. TVA has determined under present circumstances, based on balancing the need for continued economic growth with the potential hardships that rate increases will pose for residential consumers, to maintain the residential preference allocation of its current level.

Background: Assignment of Allocation Benefits in Rate Design

For 1979, the low cost power allocation had a value of $224 million.[2]

The concentration of larger amounts of the low cost benefits in the first 500 kWh came about because this block was exempted from further fuel cost increases beginning in July 1977, when TVA revised the automatic fuel and purchased power adjustment clause. Use of the fuel adjustment clause was discontinued in January 1979 although this block is still exempted from increased fuel and purchased power costs when rate adjustments are made.

There are several unattractive features of the current rate design:

Consumers who use more kilowatthours receive larger benefits than do low-use consumers. There is no reason to reward high-use consumers with greater benefits than those who have limited their consumption.

The lower cost first 500 kWh block was never meant as a conservation goal, is too small for such a purpose, and therefore does not convey that signal.

[2] Currently approximately 51 percent of this benefit is concentrated in the first 500 kWh of the residential retail rate which for about 95 percent of the residential consumers is priced lower than all kWh above 500. The remaining benefits are divided equally over all remaining kilowatthours in the residential rate.

TVA's rates and practices in the past have been successful in encouraging high use of electric heating in the Valley—three times the national average. TVA cannot in good conscience turn its back on such consumers; low and fixed income consumers with electric heat have been especially hard hit by the rate increases of the last decade.

Findings and Conclusions: Assignment of Allocation Benefits in Rate Design

Given the above, TVA has decided to adopt a residential rate form which confines the low cost benefits for consumption below certain levels. This rate would provide 500 kWh of lower cost electricity during non-winter months and 2,000 kWh during December, January, and February when electric heat needs are greatest. TVA believes that with the availability of current TVA and distributor conservation programs, 2,000 kWh in the winter, and 500 kWh during other months is a reasonable conservation goal for residental consumers with a moderate sized home. Moreover, such a rate more equitably distributes preference benefits and recognizes the special needs of electric heating consumers.

Dated: July 22, 1980.

W. F. Willis,

General Manager.

[FR Doc. 80-23475 Filed 8-4-80; 8:45 am]

BILLING CODE 8120-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 152
Tuesday, August 5, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-287, July 31, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., August 7, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Removal of requirement to file environmental evaluations with certificate applications and foreign air carrier permits so as to conform with revised Part 312 (Memo No. 8108-E, OGC).
3. Docket 35042, Amendment of regulations under the Federal Election Campaign Act to allow airlines to bill political candidates for Federal office monthly, rather than semi-monthly, during the last two months of the campaign (Memo No. 9057-B, OGC).
4. Delegated authority to Chief, Domestic Fares and Rates Division, to issue letters of approval for uncontested mail contracts (OGC, BDA).
5. Docket 34171, *Allegheny Airlines, Inc. v. United Air Lines, Inc., Enforcement Proceeding*—Order on discretionary review (OGC).
6. Docket 33136, North Central-Southern Merger Case, petition of Alan Stuart Cohen for reconsideration of Board refusal to direct arbitration of alleged labor protective provision dispute (OGC).
7. Docket 36268, Application of Big Sky Airlines, Inc.; Order (Memo No. 9823, OGC).
8. Dockets 33361 and 32462, Former Large Irregular Air Service Investigation, Application of Transocean Air Lines Inc. (Memo No. 9840, OGC).
9. Dockets 33361 and 32410, *Former Large Irregular Air Service Investigation,* Application of Holiday Airways, Inc. Order on Discretionary Review (Memo No. 9827, OGC)
10. Dockets 33363 and 34925; Former Large Irregular Air Service Investigation; Application of Sundance International, Inc. d/b/a/ Sundance International Order on Discretionary Review (Memo 9830, OGC).
11. Dockets EAS-543; Appeal of the Devils Lake Essential Air Transportation Determination filed by Devils Lake and the State of North Dakota (Memo No. 9524-A, OGC, OCCR, BDA).
12. Dockets EAS-645, EAS-646, EAS-647 and 37703; Appeal of Essential Air Service Determination for Aguadilla, Mayaguez and Ponce, Puerto Rico; Sun International's notice of intent to suspend service at Aguadilla, Puerto Rico (Memo No. 9828, BDA, OCCR, OGC).
13. Dockets EAS-432 and EAS 435; Appeals of Augusta/ Waterville's and Lewiston/ Auburn's essential air transportations determinations filed by the Cities of Augusta/ Waterville and Lewiston/Auburn (Memo No. 9834, OGC, OCCR, BDA).
14. Docket 38143—Application of Cascade Airways, Inc., for compensation for losses in providing essential air service at Moses Lake, Washington, pursuant to Section 419(a)(7) of the Federal Aviation Act of 1958, as amended (Memo No. 9672-A, BDA, OCCR, OGC, OC).
15. Docket 38459; Ocean Airways' 30-day notice to suspend all service at Brunswick, Georgia (BDA)
16. Docket 38271, Piedmont Aviation's 90-day notice of suspension of all service at John F. Kennedy Airport in New York, New York (BDA, OCCR).
17. Dockets EAS-658 and 38244, Ozark Air Lines' notice of intent to suspend service at Paducah, Kentucky (Memo No. 9838, BDA, OCCR).
18. Docket 38380, Trans World Airlines' 90-day notice of suspension of all service at Ontario, California (Memo 9831, BDA, OCCR).
19. Docket 29857; Petitions for reconsideration of Order 79-3-4 realigning Continental Air Line; Route 29 (Memo 8057-B, BDA).
20. Docket 38161, Frontier's notice to terminate service at ten points (Memo No. 9825, BDA, OCCR).
21. Docket 38120, Joint petition filed by Alpha Airlines, Inc. and Hawaiian Airlines for issuance of a show cause order pursuant to section 380.5 of the Board's Special Regulations (Memo No. 9841, BDA, OGC).
22. Dockets 36132 and 36789, Petition for Reconsideration of Orders 79-12-53 and 79-8-180 filed by Air Wisconsin (Memo No. 9836, BDA).
23. Docket 38062, Application of north Cariboo Flying Service Ltd. for an initial foreign air carrier permit to operate charters between Canada and the United States using large aircraft (Memo No. 9839, BIA, OGC, BALJ).
24. Docket 37932, Application of Kelowna Flightcraft Air Charter Ltd. for an initial foreign air carrier permit to operate charters between Canada and the United States using large aircraft (BIA, OGC, BALJ).
25. Docket 35414, Petition of British Airways Board for reconsideration of Order 80-4-119 (BIA, OGC).
26. Docket 37956, Order dismissing TWA's exemption request for a St. Louis-Mexico City/Acapulco Route (Memo No. 9842, BIA, OGC).
27. Docket 38188, Application of Lone Star Airways, Inc. for a certificate of public convenience and necessity (U.S.-Caribbean points) (Memo No. 9843, BIA, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068

[S-1482-80 Filed 8-1-80; 3:44 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, No. 149, Thursday, July 31, 1980, 51040.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., August 5, 1980.

CHANGES IN THE MEETING: Status report on the New Orleans Commodity Exchange has been changed to Status Report on Applications for Contract Market Designation.

[S-1481-80 Filed 8-1-80; 3:10 pm]

BILLING CODE 6351-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:30 p.m. on Thursday, July 31, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider a revised resolution in connection with a recommendation regarding the liquidation of assets acquired by the Corporation from Livingston State Bank, Livingston, New Jersey (Case No. 44,359-L).

In calling the meeting, the Board of Directors determined, on motion of Director William M. Isaac (Appointive), seconded by Mr. Paul M. Homan, acting in the place and stead of Director John G. Heimann (Comptroller of the

Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(8) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(B)).

Dated: July 31, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1477-80 Filed 8-1-80; 11:22 am]

BILLING CODE 6714-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 2 p.m., August 1, 1980.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Commission Deliberations Concerning the Investigation of a Jurisdictional Company and the Initiation of a Particular Case Involving a Determination on the Record After Opportunity for Hearing.

(2) Commission Deliberations Concerning the Investigation of a Jurisdictional Company and the Agency's Participation in a Civil Action.

(3) Commission Deliberations Concerning the Proposed Investigation of Jurisdictional Company and the Agency's Participation in a Civil Action.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary; telephone (202) 357-8400.

[S-1480-80 Filed 8-1-80; 2:59 pm]

BILLING CODE 6450-85-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 50035, July 28, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. July 30, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Subject

M-17—RM80— , Regulations to Amend Filing Requirements for Interstate Pipelines to Implement Policy of the Commission Respecting the Incurrence of Production-Related Costs.

Kenneth F. Plumb,

Secretary.

[S-1474-80 Filed 8-1-80; 10:18 am]

BILLING CODE 6450-85-M

6

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 2:15 p.m., Tuesday, August 5, 1980. The business of the Board requires that this meeting be held with less than one week's advance notice to the public and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed amendments to Regulation D (Reserves of Member Banks) to implement the Monetary Control Act by applying new reserve requirements to member and nonmember depository institutions. (Proposed earlier for public comment; Docket No. R-0306.)

2. Proposed amendment to Regulation A (Extensions of Credit by Federal Reserve Banks) to implement the Monetary Control Act by providing access to Federal Reserve credit through the discount window for depository institutions subject to reserve requirements. (Proposed earlier for public comment; Docket No. R0307.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: August 1, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-1479-80 Filed 8-1-80; 1:37 pm]

BILLING CODE 6210-01-M

7

[FCSC Meeting Notice No. 7-80]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wednesday, August 6, 1980 at 10:30 a.m.
Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, August 13, 1980 at 10:30 a.m.
Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, August 20, 1980 at 10:30 a.m.
Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, August 27, 1980 at 10:30 a.m.
Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Oral hearings on objections to decisions issued under the German Democratic Republic Claims Program:

Monday, August 18, 1980 at 10:00 a.m.
G-2832—K. Peter Wagner
G-2854—Maria C. O'Leary; Norbert C. O'Leary and Michael C. O'Leary
G-3301—Ellen Lange and Rolf Drucker

Monday, August 18, 1980 at 2:00 p.m.
G-0252—Estate of Marcell Roth, Maria Roth, Executrix
G-0616—Lea P. Mendelsohn
G-2861—Wolf Weinreb
G-2994—Johanna Maria Keck

Monday, August 25, 1980 at 10:00 a.m.
G-0380—Ludwig Gross
G-1804—Gerda Freitag
G-3038—Elfriede Mayer and Amalia Steinberger
G-3512—Eric Manville
G-3839—Erna G. Winkler

Monday, August 25, 1980 at 2:00 p.m.
G-0597—Brigitte Horney-Swarzenski
G-1651—Hans W. Schwerin and Gunther K. Schwerin
G-3841—Renate D. Kimbrough

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, N.E., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, N.E., Washington, D.C. 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C. on July 24, 1980.

Francis T. Masterson,

Executive Director.

[S-1478-80 Filed 8-1-80; 10:36 am]

BILLING CODE 6770-01-M

8

[NM-80-29]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, August 12, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report*—Derailment of Amtrak Train No. 7, the Empire Builder, on Burlington Northern Track, Glacier Park, Montana, March 14, 1980, and *Recommendations* to the Federal Railroad Administration, the National Railroad Passenger Corporation, and the Burlington Northern.

2. *Marine Accident Report*.—Collision of U.S. Tankship EXXON CHESTER and Liberian Freighter M.V. *Regal Sword* in the Atlantic Ocean near Cape Cod, Massachusetts, June 18, 1979, and *Recommendations* to the United States Coast Guard and Exxon Company.

3. *Special Investigation Report*—Increased Shipper Involvement in Hazardous Materials Transportation and *Recommendations* to the U.S. Department of Transportation.

4. *Safety Effective Evaluation* of the Materials Transportation Bureau's Pipeline Data System, and *Recommendations* to the Research and Special Programs Administration of the U.S. Department of Transportation.

5. *Railroad Accident Report*—Head-end Collision of Nine Burlington Northern Locomotive Units with the Standing Freight Train, Angora, Nebraska, February 16, 1980, and *Recommendations* to Burlington Northern.

CONTACT PERSON FOR MORE IMFORMATION: Sharon Flemming, 202–472–6022.

August 1, 1980.

[S-1478-80 Filed 8-1-80; 11:53 am]

BILLING CODE 4910-58-M

9

NUCLEAR REGULATORY COMMISSION.

DATE: August 1 (change), 6 and 7, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Friday, August 1:

10:30 a.m.

1. Discussion of Management-Organization and Internal Personnel Matters (approximately 1½ hours), closed—Exemptions 2 and 6) (additional item).

Wednesday, August 6:

10 a.m.

1. Discussion of Draft Programmatic EIS on Decontamination and Waste Disposal at TMI (approximately 1½ hours, public meeting).

2 p.m.

1. Briefing on Westinghouse Turbine Disk Cracking (approximately 1 hour open/closed status to be determined).

Thursday, August 7:

3 p.m.

1. Affirmation Session (approximately 10 minutes, public meeting).

a. Part 72, Spent Fuel Storage (ISFSI) (postponed from July 31).

2. Time Reserved for Discussion and Vote of Affirmation Items (if required) (approximately 30 minutes, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Walter Magee,

Office of the Secretary.

June 30, 1980.

[S-1475 Filed 8-1-80; 10:16 am]

BILLING CODE 7590-01-M

Federal Register

Tuesday
August 5, 1980

Part II

Department of Education

Office of the Secretary

Nondiscrimination Under Programs Receiving Federal Financial Assistance Through the Education Department

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 100

Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964.

AGENCY: Department of Education

ACTION: Proposed Rules

SUMMARY: The Secretary of Education proposes rules to implement provisions of Title VI of the Civil Rights Act of 1964 to prevent national origin discrimination in elementary and secondary education. The proposed rules prohibit recipients of federal financial assistance from denying equality of access to any student because of that student's limited proficiency in English.

DATES: Public hearings will be held during September, 1980. Comments must be received on or before October 6, 1980.

ADDRESSES: Comments should be addressed to Mr. Antonio J. Califa, Office for Civil Rights, Department of Education, Post Office Box 8240, Washington, D.C. 20024.

Public hearings will be held in six cities:

Chicago, Illinois
Denver, Colorado
New York, New York
New Orleans, Louisiana
San Antonio, Texas
San Francisco, California

The address, date, and time of each meeting will be anounced in a separate FEDERAL REGISTER notice.

FOR FURTHER INFORMATION CONTACT: Mr. David Leeman, Office for Civil Rights, Department of Education. Telephone: (202) 472-4422.

SUPPLEMENTARY INFORMATION:

Problems of Students with Limited English Proficiency

In these proposed rules, the Education Department addresses one of the most serious barriers to equal opportunity in education. It proposes standards for teaching students whose primary language is not English and who have limited proficiency in English.

The number of these students is large and growing. Estimates by the National Institute of Education and the National Center for Educational Statistics place the number of limited-English-proficient school-age children at over three and a half million. The overwhelming majority of these children were born in this country. Of all the limited-English-proficient children in this country, the largest group is Hispanic. The second largest group speaks Asian languages such as Chinese, Korean, Vietnamese, and Cambodian.

Students who do not use English well enough to participate effectively in classes where the language of instruction is English often face difficulties obtaining an appropriate education. These limited-English-proficient students face two main problems. First, they must be taught English. Second, while they are learning English, they must have the opportunity to keep pace with their English-speaking classmates who are learning other subjects. Educational practices that do not address these problems impose substantial and unnecessary burdens on these students.

In the past, too many schools have failed to meet the needs of limited-English-proficient students. Students who rely on a language other than English drop out of school at a much higher rate than that of members of their own ethnic, racial, or socio-economic group who speak English. For Hispanic students who primarily speak Spanish, this drop-out rate is more than three times higher than that of Hispanic students who primarily speak English.

Applicable Laws, Current Regulations, and Policy

Past educational practices resulted in denying many limited-English-proficient students the equal educational opportunities to which they are legally entitled. Title VI of the Civil Rights Act of 1964 enacts a broad prohibition against discrimination in federally funded programs. The statute reads, in part:

> "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (42 U.S.C. 2000d)

Rulemaking authority is expressly given to agencies with the responsibility to enforce Title VI:

> "Each Federal department and agency...empowered to extend Federal financial assistance...is authorized and directed to effectuate the provisions of section 2000d of this title...by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance...." (42 U.S.C. 2000d-1)

Shortly after Title VI became law, the Department of Health, Education and Welfare promulgated regulations implementing Title VI (45 CFR Part 80, republished as 34 CFR Part 100). The regulations were primarily directed toward the elimination of segregation. Among other things, the regulations prohibited practices by recipients that --

- Resulted in services, financial aid, or other benefits that were different or provided in a different manner to minority and non-minority people;

- Restricted an individual's enjoyment of an advantage or privilege enjoyed by others on the basis of race, color, or national origin; or denied an individual the right to participate in Federally assisted programs because of race, color, or national origin; or

- Had the effect of defeating or substantially impairing the objectives of Federally assisted programs with respect to persons of a particular race, color, or national origin.

Title VI and its implementing regulations were interpreted by the Department of Health, Education and Welfare to prohibit the denial of access to education programs because of a student's limited English proficiency. This interpretation was publicized through a guideline, the May 25, 1970 Memorandum (35 Fed. Reg. 11595). The United States Supreme Court, in Lau v. Nichols, 414 U.S. 563 (1974), unanimously upheld this guideline as an appropriate and permissible interpretation of Title VI.

The Lau decision involved approximately 3,000 limited-English-proficient Chinese students enrolled in the San Francisco public schools who were required to attend classes taught exclusively through English. The opinion of the Court noted that the Title VI regulations promulgated by the Department of Health, Education and Welfare prohibited conduct which had a discriminatory effect as well as conduct which was intentionally discriminatory.

The Court reasoned that exclusion based upon a characteristic unique to a national-origin minority group had the same effect as an intentional scheme to exclude such a group from a realistic chance to obtain an education. In part, the opinion stated:

> "there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum, for students who do not understand English are effectively foreclosed from any meaningful education." (Lau, supra, at p. 566).

The Lau decision did not prescribe the steps which a school district must take to accommodate students whose English is limited. The Court stated:

> "Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instruction to this group in Chinese is another. There may be others." (Lau, supra, at p. 565).

After the Court's decision was rendered, the Department of Health, Education and Welfare asked experts for advice on assisting limited-English-proficient students. The result was a policy document, made available in the summer of 1975, entitled Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under Lau v. Nichols. The document was not published in the FEDERAL REGISTER, but was distributed widely to school officials and to the general public. This document became known as the Lau Remedies.

The document was originally developed to guide the Department's Office for Civil Rights in evaluating plans to eliminate Title VI violations resulting from the exclusion of students whose English is limited. A plan that met the criteria established in the document was automatically accepted. In applying the Lau Remedies, Department officials adopted the following policies:

- Schools were required to provide instruction for elementary students through their strongest language until the students were able to participate effectively in a classroom where instruction was given exclusively through English.

- Schools were required to provide effective instruction in English as a second language to all students for whom English was not the strongest language.

- Districts were permitted to rely exclusively on English-as-a-second-language instruction only if they could demonstrate that their program was as effective as the types of programs described by the Lau Remedies.

In addition to Title VI, other statutes have been enacted to encourage special help for students with a primary language other than English. Although it is not administered by the Education Department, the Equal Educational Opportunity Act of 1974 requires that public educational agencies take steps to overcome language barriers impeding equal participation in school programs. Under Title VII of the Elementary and Secondary Education Act of 1965, the Education Department administers a $167 million program of grants and contracts to support bilingual education. Several states, including California, Texas, Colorado, and Massachusetts, have also enacted laws requiring bilingual education programs. These statutes, which also provide State funds for bilingual education, vary widely in the nature of the services they require and in the populations they serve.

The Proposed Rules

The procedures required by the proposed rules fall into four broad categories. Recipients must first identify each student's primary language. After students with a primary language other than English have been identified, their skills in English and their primary language must be assessed. Depending on the results of the assessment, different students are entitled to different types of services. Finally, the recipient must reassess students to determine when services may be ended. These stages are discussed below and summarized in Figure 1 -- Summary of Requirements in the Proposed Rules.

1. Identification. The proposed rules require a recipient to use interviews or questionnaires to identify the primary language of its students. For a student below the ninth grade, the interview or questionnaire must be directed to the student's parent or guardian. If the student's primary language cannot be identified, the student is assumed to have a primary language other than English and must be assessed.

2. Assessment. All students identified as having a primary language other than English must be assessed. Assessment of the student takes place in two stages. In the first stage, the recipient must test the student's proficiency in English to determine whether the student is eligible for any services. Only limited-English-proficient students are eligible for services. In the second stage, the recipient must test all limited-English-proficient students to determine whether the student is stronger in English, stronger in the primary language, or comparably limited in both languages. The student's relative language proficiency is used to determine instructional placement.

(a) Assessing English proficiency: Eligibility. Recipients have substantial latitude in choosing a measure of English proficiency. They may use a test of oral language proficiency or, in grades two and above, a test of reading comprehension achievement. A student is defined as limited-English-proficient if the student's test score falls below the 40th percentile of a relevant comparison group. The recipient may choose a comparison group from three different populations: students in the same grade nationally; students in the same grade state-wide; or nonminority students in the same grade locally. The recipient may decide which comparison group to use.

The standard for defining limited English proficiency is set fairly high --the 40th percentile -- to include all students who might need special services. After a significant period of receiving services, however, students may be reassessed under a lower standard.

(b) Assessing relative language proficiency: Placement. An assessment of relative language proficiency should determine the language in which a student is best able to function. The assessment procedure must measure proficiency in each language, independently and in a way that allows a comparison of the results. If no such measure is available, the proposed rules permit recipients to use structured interviews or other objective procedures.

The relative proficiency measure will yield three categories of students -- those who are clearly stronger in their primary language than in English, those who are clearly superior in English, and those who are comparably limited in both languages. These categories will in turn determine the kinds of services that must be provided to the student.

3. Services.

(a) Equal access. Limited-English-proficient students who are clearly English-superior need not be given specially tailored services. These students primarily rely on English. It is their strongest language. The type of help they may need in improving their English skills is similar to that needed by monolingual speakers of English who have relatively weak language skills. The proposed rules, therefore, simply mandate that English-superior students have the same access to compensatory help as other students.

(b) Improving English skills. The remaining students — those who are comparably limited and those who are clearly primary-language-superior — must receive instruction designed to develop full proficiency in English. Because English is generally used in schools throughout the country, English skills are essential to participation in educational programs and activities.

(c) Instruction through both languages. Because students with weak English skills may fall permanently behind in other required subjects while they are learning English, the proposed rules require that primary-language-superior students receive instruction through both languages in required subjects while the students are learning English. Instruction in English may be increased as the student's command of the English language increases.

Two alternatives are presented in the text of the proposed rules to stimulate comment on whether comparably limited students should also receive this instruction. These alternatives are presented because experts disagree about which placement is best for comparably limited students. Some educators argue strongly that students who are comparably limited in two languages will have a difficult time in a monolingual, English-speaking class. They also argue that the skills that limited-English-proficient students possess in their own language are not necessarily the same as those possessed in English. For example, vocabulary or grammar skills may be different in each language. Others object to this assumption and argue that these students will do better in the long run if their English skills are sharpened by instruction offered exclusively through English.

Once a student is placed in bilingual instruction, the proposed rules do not specify any particular pedagogical method, other than the use of both languages. However, the proposed rules would require that these classes be similar to those offered exclusively through English in size, content, quality, objectives, and instructional materials. They would further require that teachers providing bilingual instruction meet certain minimum standards. The proposed rules also include specific provisions to ensure that bilingual instruction is not used as a pretext for racial and ethnic isolation.

(d) Modifying required services. The proposed rules permit a modification of the bilingual instruction requirements where these requirements would be particularly burdensome. A recipient need not always provide qualified bilingual education teachers for high school classes because these classes often require considerable specialization. Similarly, below grade nine, when a recipient has too few students from a particular language background to combine conveniently into a single class with a single teacher, other methods of organizing a bilingual program can be used, such as magnet schools, traveling teachers, aides, parent and student tutors, and tape recordings.

In addition, the proposed rules allow the Secretary to grant waivers to recipients who meet certain requirements. First, recipients faced with unexpectedly large and rapid increases in the number of limited-English-proficient students may obtain a temporary waiver. Second, the Secretary may grant a partial waiver allowing recipients to conduct pilot programs designed to find more efficient or more effective ways of serving limited-

English-proficient students. Ordinarily, a waiver will cover only a portion of the schools in a district. The proposed rules are not designed to freeze experimentation in a field of inquiry that is still young; rather they seek to guarantee that pilot programs will be carefully designed and monitored to produce successful results. Third, the proposed rules allow the Secretary to grant waivers to recipients now operating effective programs that differ in one degree or another from the programs required by the rules. These waivers will be granted only after a careful examination of students' academic achievement, dropout and attendance rates, and average age in grade.

4. Exit criteria. Placement in a particular program is not permanent. Students must be reassessed, and the reassessment may show that they are no longer entitled to certain services.

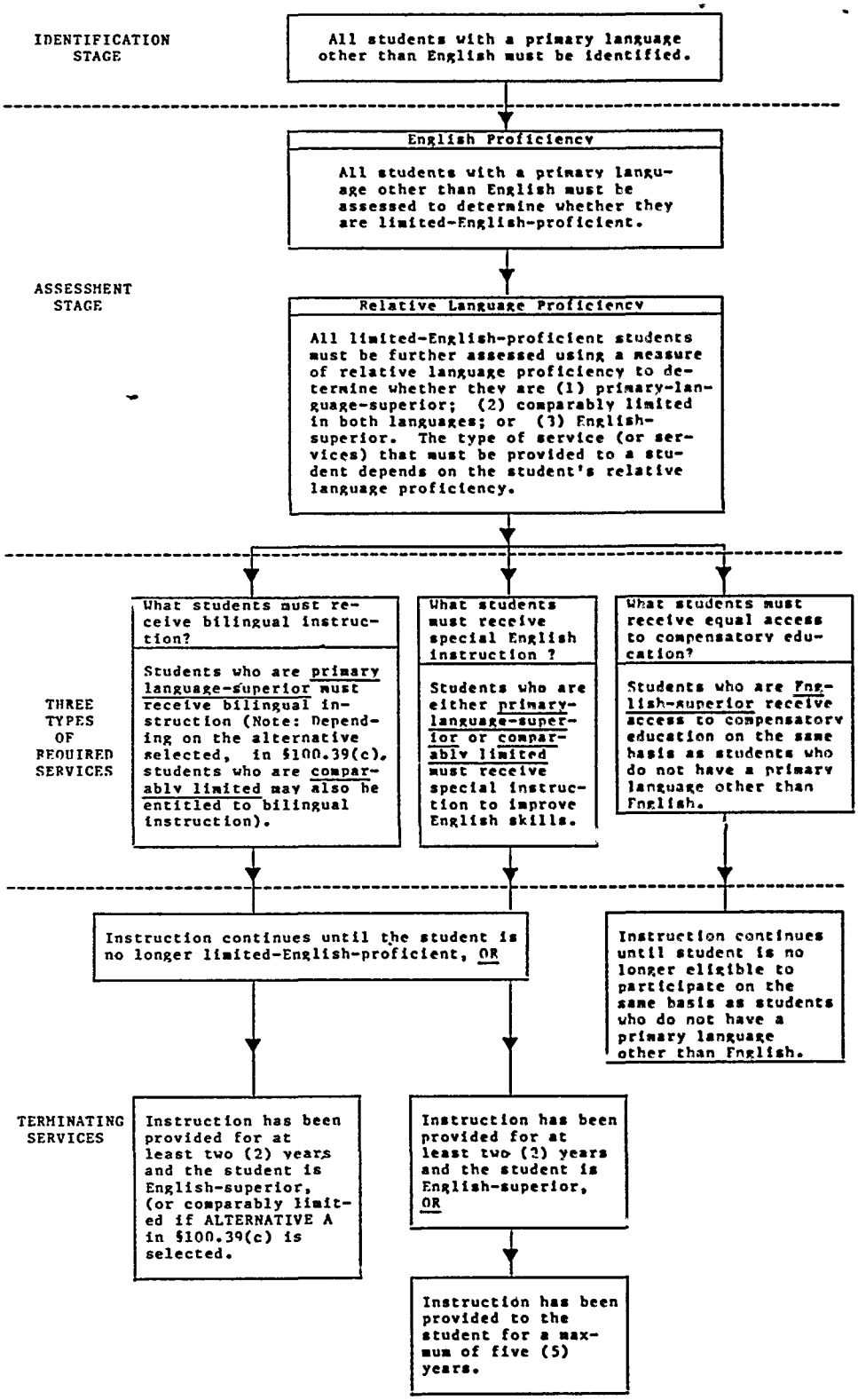
(a) Instruction to improve English language skills. Students need not receive instruction to improve English language skills if they are no longer limited-English-proficient. These services may cease in any case if they have been provided for a five-year period. After five years, it may be assumed that additional assistance of this type will result in only marginal benefit to the student.

(b) Instruction through two languages. Students need not receive instruction through two languages if after two years in the program they are reassessed as English-superior (or comparably limited in both languages, depending on whether such students are entitled to bilingual instruction). The two-year minimum is designed to give bilingual instruction an opportunity to work before the student is transferred out.

Students are not entitled to these services if they are reassessed and are no longer limited-English-proficient. In addition, after two years in the program, the standard for English proficiency drops from the fortieth to the thirtieth percentile. Combined with the inclusive entrance standard, the two-year period gives a large number of students access to a meaningful period of bilingual instruction. However, the rationale for the inclusive entrance standard (ensuring that required services are available to every student who is likely to need them) is less viable if the student is still on the border of English proficiency after two years of required instruction.

5. Other provisions. Recipients may exceed the requirements of the proposed rules by operating programs which are designed to increase proficiency in two languages or which provide instruction in the history and culture of non-English-speaking people. Also, parents are not required to accept the placement of their children in any of the programs described in the proposed rules, but may insist on placement in the same program provided monolingual English speakers. The rules also establish recordkeeping requirements and provide for procedures to remedy violations.

Figure 1
Summary of Requirements in the Proposed Rules



Questions on which Comments are Specifically Sought

1. Identification (§ 100.35). Are there additional or alternative methods that may be used by the recipient to identify the primary language of its students? Is the definition (§ 100.33) of a student who has a "primary language other than English" appropriate? Are self-identification procedures satisfactory in the case of younger students? At what age or grade can students be expected to identify themselves accurately as having a primary language other than English?

2. Alternative Assessment Procedures (§§ 100.36 and 100.37). Are there other methods in addition to, or different from, the assessment methods contained in these proposed rules that would accurately and simply assess the English language skills of students? Are appropriate assessment methods other than reading comprehension achievement tests readily available? Are the standards of validity and reliability (§ 100.38) appropriate? Should other standards be required?

3. Assessment for determining limited-English-proficiency (§ 100.36). Are the criteria established by the proposed rules for determining whether a student is limited-English-proficient set at an appropriate level? What other criteria may be used? Do the regulations account for all students who are likely to be denied equal educational opportunity because of a limited ability in English?

4. Instructional placement (§ 100.39): Should relative language proficiency be used to determine instructional placement? Are appropriate criteria established for determining whether a student needs instruction through both the primary language and English? What other criteria should be used? Is bilingual instruction appropriate or necessary for limited-English-proficient students who are comparably limited in both languages? For students who are English-superior?

5. Modified services (§ 100.40). Should bilingual instruction be required in or above grade nine? Are there educational reasons why this is inappropriate? Practical reasons? Are the suggested methods for providing modified bilingual instruction to students in or above grade nine appropriate? Should the regulations specify that magnet schools and itinerant bilingual teachers are preferred forms of modified services?

Should recipients serving small numbers of limited-English-proficient students with a particular primary language be permitted to provide modified bilingual programs? Particularly, should a recipient be able to modify the required services when there are 25 or fewer limited-English-proficient students in two consecutive grades? One grade? Three grades?

6. Services (§ 100.39) Should the descriptions of the various instructional services required by the proposed rules be more detailed?

7. Exit criteria (§ 100.41). Are appropriate criteria established for determining when the various required services no longer need to be provided to a particular student? Are the exit criteria for bilingual instruction appropriate? Should bilingual instruction automatically terminate after a period of time? If so, what length of time or other criteria might be appropriate?

Another approach could be to permit teachers to determine whether a student stays in or leaves a bilingual class when test scores or other objective indicators fall within a given range and tend to corroborate a classroom teacher's judgment of a student's likelihood of academic success. Is this appropriate?

The Department also seeks specific comment on whether appropriate criteria have been set for discontinuing services to improve the student's English language skills. Should the criteria be lowered? Raised? Should a time limit be set on the required provision of such services?

8. Definition of qualified bilingual education personnel (§ 100.33). Are the requirements for bilingual education teachers established by the proposed regulations appropriate? Are they set too high? Too low? The Secretary specifically invites comment on whether such requirements should be made more specific, and, if so, on the minimum requirements that should be established.

9. Minimum staff requirements (§ 100.44). Are the requirements imposed by the proposed rules dealing with recruiting and training of qualified bilingual staff too strict? Too lenient? The proposed regulations provide that a teacher may be allowed five years to qualify as a bilingual education teacher; is this appropriate? The proposed rules allow a paraprofessional to complete training in six years; is this appropriate?

10. Record-keeping requirements (§ 100.52). Are the record-keeping requirements of the proposed rules too burdensome? If so, how?

11. Technical assistance. The Department is in the process of developing a strategy to provide technical assistance to help recipients comply with these proposed rules. If funds are available, the Department may also provide technical assistance to school districts that need and desire help in developing a pilot program as described in § 100.50 of these regulations. The Secretary is particularly interested in receiving comments on the areas in which technical assistance may be needed and on the type of technical assistance the Department should provide.

12. Research assistance. The Secretary recognizes that the issue of assessing language abilities, particularly among language-minority students, is attracting increasing attention among reseachers, educators, and the public in general. The Secretary is interested in comments on the assessment procedures that are required in these proposed rules. The Department has established a committee to analyze the comments on the assessment procedures contained in these proposed rules.

13. Regulatory analysis. In conformance with Executive Order 12044, a draft analysis of the cost of these proposed rules and of potential alternatives has been prepared and is available for comment. People who would like to obtain copies may write to the contact person at the address shown at the beginning of the preamble. People having information relating to the cost of bilingual education, particularly those with experience in operating these programs, are asked to provide information which will aid the Department in eliminating any unnecessary costs that might be caused by these proposed rules.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this preamble. All comments received on or before October 6, 1980 will be considered in the development of the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, at the Department of Education, Room 5409, Switzer Building, 330 C Street, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

CITATION OF LEGAL AUTHORITY:

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed rules.

Dated: 29 JUL 1980

Shirley M. Hufstedler
Secretary of Education

Part 100 Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964.

The Secretary proposes to amend 34 CFR, Part 100 as follows:

1. Designate current regulations (§§ 100.1 - 100.13) as Subpart A — Prohibited Discrimination.

2. Add a new Subpart B as follows:

Subpart B -- National Origin Discrimination in Elementary and Secondary Education

Sec.

AUTHORITY: Title VI of the Civil Rights Act of 1964, as amended. (42 U.S.C. 2000d et seq.)

Subpart B — National Origin Discrimination in Elementary and Secondary Education

§ 100.30 What is the purpose of this subpart?

The purpose of this subpart is —

(a) To ensure that students will not be excluded from participation in, be denied the benefits of, or be subjected to discrimination in education programs and activities because they have a primary language other than English; and

(b) To ensure that a student's limited proficiency in the English language will not bar the student from equal and effective opportunities to participate in Federally assisted education programs and activities.
(42 U.S.C. 2000d et seq.)

§ 100.31 To whom does this subpart apply?

This subpart applies to all recipients of Federal financial assistance who use this assistance to aid programs and activities of elementary and secondary education serving students from the beginning of school through twelfth grade.
(42 U.S.C. 2000d et seq.)

§ 100.32 What is the effect of violating this subpart?

A recipient's failure to identify students having a primary language other than English, to assess their language skills, to provide appropriate services, or to undertake the other requirements of this subpart constitutes noncompliance with Title VI of the Civil Rights Act of 1964.
(42 U.S.C. 2000d et seq.)

§ 100.33 What definitions apply specifically to this subpart?

"Bilingual education" means instruction given through two languages, one of which is English.

"Bilingual individuals" refers to persons who are able to converse in English and in the appropriate primary language with considerable proficiency in those areas of instruction to which they are assigned. This ability includes the ability to speak and understand both languages and, where necessary to the duties assigned, the ability to read both languages. It neither implies nor precludes an extensive vocabulary that might be necessary to converse in the appropriate primary language with speakers on complicated matters not related to the duties to which they are assigned. However, bilingual individuals who are expected to communicate with parents on school matters must be able to do so in the appropriate primary language.

"Comparably limited in English and in the primary language" refers to limited-English-proficient students who are neither English-superior nor primary-language-superior.

"English-superior" refers to limited-English-proficient students whose ability to speak and understand English is clearly superior to their ability to speak and understand their primary language.

"Guardian" means the legal guardian or other person responsible for the welfare of the student.

"Limited-English-proficient" refers to students with a primary language other than English who have such difficulty with the English language that the opportunity to participate effectively in school may be denied when English is the exclusive language of instruction.

"Minority" refers to students —

(a) Who are ordinarily identified by others, or who identify themselves, as either Black, Hispanic, Native American, or of Asian origin; or

(b) Who have a primary language other than English.

"Primary-language-superior" refers to limited-English-proficient students whose ability to speak and understand their primary language is clearly superior to their ability to speak and understand English.

"Primary language other than English" means a language other than English that is —

(a) The first language the student acquired; or

(b) A language the student normally uses.

"Qualified bilingual education teacher" means a teacher who meets all of the following requirements:

(a) The teacher is qualified under State law to teach the subject and grade to which he or she is assigned.

(b) The teacher has successfully met appropriate standards for teaching in more than one language and for teaching English to speakers of other languages. These standards may be established by the State, recipient, or other lawful authority responsible for establishing such standards.

(c) The teacher is able to converse in English and in the appropriate primary language with considerable proficiency in those areas of instruction to which he or she is assigned. This ability includes the ability to speak, understand, read, and write both languages. It neither implies nor precludes an extensive vocabulary which might be necessary to converse in the appropriate primary language on complicated matters not related to the subjects which he or she is required to teach.

(d) The teacher is able to communicate with parents on school matters in the appropriate primary language.

"Relative language proficiency" refers to whether the student is primary-language-superior, English-superior, or comparably limited in English and in the primary language.

"Required subjects" means required courses, their officially approved alternatives, or other subject matter which the recipient expects all students to master. Art, music, and physical education are not required subjects for purposes of this subpart.

"Small student population" means a group of twenty-five or fewer students in a school --

(a) Who are entitled to bilingual instruction;

(b) Who are enrolled in two consecutive grades in the school;

(c) Who have a common primary language other than English; and

(d) Whose parents or guardians have not elected to withdraw them from the bilingual instruction described in § 100.39(c).
(42 U.S.C. 2000d et seq.)

§ 100.34 What other definitions apply to this subpart?

The following terms, defined in 34 CFR 100.13, also apply to this subpart:

Department	Recipient	State
Federal financial assistance	Secretary	

(42 U.S.C. 2000d et seq.)

§ 100.35 How are students with a primary language other than English identified?

(a)(1) A recipient must identify the primary language of each student unless it determines that the student is not limited-English-proficient according to assessment procedures described in §§ 100.36 or 100.37.

(2) Students need not be identified if the assessment described in §§ 100.36 or 100.37 indicates that they are not entitled to the services described in § 100.38(b) or (c).

(b) Subject to paragraph (a) of this section, a recipient must use the following identification procedures:

(1) In kindergarten through eighth grade the identification must be made either by an interview of the student's parent or guardian or by a questionnaire completed by the parent or guardian. The interview must be conducted or the questionnaire written in a language the parent or guardian fully understands. If the parent or guardian is unable to read a questionnaire, or if a questionnaire is not available in an appropriate language, an interview must be conducted.

(2) For students in grades nine through twelve, a recipient may --

(i) Use the identification methods described in paragraph (b)(1) of this section; or

(ii) Interview the student or have the student complete the identification questionnaire.

(3) If the questionnaire is not returned and an interview cannot be conducted, the recipient shall make every reasonable effort to contact the parent, guardian, or student to obtain the necessary information.

(4) If, within four weeks of enrollment, the information required in paragraph (a) of this section cannot be obtained for a particular student, the student must be considered unidentified. These students must be assessed, as described in §§ 100.36 and 100.37.
(42 U.S.C. 2000d et seq.)

§ 100.36 How must a recipient assess students to determine if they are limited-English-proficient?

(a) Each student who is unidentified, as defined in § 100.35(b)(4), and each student having a primary language other than English, must be assessed to determine whether the student is limited-English-proficient.

(b) A student is limited-English-proficient if the assessment reveals either of the following circumstances:

(1) The student's ability in English is so limited that the assessment procedure cannot be administered.

(2) The student's score, either on a test of proficiency in speaking and understanding English or, in grade two or above, on a test of reading comprehension achievement, is below the fortieth percentile of a relevant student population. The recipient may compare the student to any one of the following relevant student populations --

(i) The recipient's students (other than minority students) enrolled in the grade to which students of the same age are ordinarily assigned;

(ii) Students enrolled statewide in the grade to which students of the same age are ordinarily assigned; or

(iii) Students enrolled nationwide in the grade to which students of the same age are ordinarily assigned.

(3)(i) For students below grade two, the recipient may omit the tests otherwise required by this section, temporarily classify the student as limited-English-proficient, and determine the student's instructional program after assessing the student's relative language proficiency according to the assessment procedures described in § 100.37.

(ii) At or before the beginning of grade two, these students must be assessed to determine whether they are limited-English-proficient using the procedures described in paragraph (b) of this section.
(42 U.S.C. 2000d et seq.)

§ 100.37 How does a recipient assess students' relative language proficiency?

(a) Each student classified as limited-English-proficient must be assessed to determine the student's relative language proficiency using an assessment procedure that independently measures proficiency both in English and in the student's primary language in such a way that the results can be compared.

(b) If no such assessment procedure is available in the student's primary language, recipients may develop or use a structured interview in English and in the student's primary language or some other documented procedure.
(42 U.S.C. 2000d et seq.)

§ 100.38 What standards of validity and reliability must assessment procedures meet?

An assessment procedure used to determine a student's limited English proficiency or relative language proficiency must be one that would be generally regarded by experts in the assessment or analysis of language proficiency as capable of --

(a) Measuring the language skills necessary to make instructional or other educational decisions about these students; and

(b) Producing consistent results.
(42 U.S.C. 2000d et seq.)

§ 100.39 What services must be provided to limited-English-proficient students?

(a) Equal access to compensatory education. English-superior students shall receive equal access to services and classes designed to improve the speaking, understanding, reading, and writing of English. For purposes of this paragraph, equal access means access on the same basis as students who do not have a primary language other than English.

(b) Improving English language skills. Students who are primary-language-superior or comparably limited in English and the primary language shall receive help designed to develop full proficiency in speaking, understanding, reading; and writing English.

(c) Bilingual instruction.[1/]

ALTERNATIVE A

(1) Instruction given in required subjects through both English and the primary language shall be provided to primary-language-superior students.

ALTERNATIVE B

(1) Instruction given in required subjects through both English and the primary language shall be provided to primary-language-superior students and to students who are comparably limited in English and the primary language.

(2)(i) Except as otherwise provided by this subpart, this instruction must be given by a qualified bilingual teacher and shall be comparable in content, quality, objectives, and instructional materials to that offered students whose primary language is English.

(ii) The pupil-teacher ratio for classes or instructional groups taught bilingually must be at least comparable (i.e. within two students per teacher) to that of similar classes taught through English. Nothing in this section prohibits or requires a lower pupil-teacher ratio for classes or instructional groups taught bilingually.

(iii) English may be introduced as a means of instruction commensurate with the student's progress in acquiring skill in English.
(42 U.S.C. 2000d et seq)

§ 100.40 When and how may required bilingual instruction be modified?

(a) For small student populations or students enrolled in or above grade nine, a recipient may provide instruction in required subjects through English and the primary language using any of the following methods:

(1) Magnet schools offering instruction through the primary language or itinerant qualified bilingual education teachers serving several schools.

(2) Any other method of using bilingual individuals (including student or parental tutors) or providing bilingual instruction (including the use of bilingual tapes and materials), if the method is offered in good faith and is monitored by the recipient to ensure that it is, within the constraints imposed by the location or number of students, as effective as possible in serving these students.

[1/] A discussion of these alternative requirements appears in the Supplementary Information section in the preamble of this document. Readers should note that only one provision will appear in the final regulations.

(b) A recipient adopting a modified program must --

(1) Develop a detailed written plan describing the steps it will take to provide services to students receiving a modified program;

(2) Document efforts to meet the objectives of the plan; and

(3) Review its efforts at least annually, and modify the plan to improve upon the program provided to these students as necessary.
(42 U.S.C. 2000d et seq.)

§ 100.41 When may a recipient stop providing services to individual students?

(a) Bilingual instruction. A recipient may stop providing the bilingual instruction described in §§ 100.39(c) or 100.40 to a student who meets any of the following criteria:

(1) The student is no longer limited-English-proficient.

(2) The student has received the services for two years and the student --

(i) Is no longer entitled to bilingual instruction by virtue of relative language proficiency; or

(ii) Scores at or above the thirtieth percentile using an assessment procedure to determine whether a student is limited-English-proficient.
Cross-reference: See 34 CFR 100.36(b)(2)

(b) Improving English language skill. A recipient may stop providing the assistance in improving English language skills described in § 100.39(b) to a student who meets any of the following criteria:

(1) The student is no longer limited-English-proficient.

(2) The student has received the services for two years and the student --

(i) Is no longer primary-language-superior or comparably limited in English and the primary language; or

(ii) Scores at or above the thirtieth percentile using an assessment procedure to determine whether a student is limited-English-proficient.
Cross-reference: See 34 CFR 100.36(b)(2)

(3) The student has received the services for 5 years.
(42 U.S.C. 2000d et seq.)

§ 100.42 How often must a student receiving required services be reassessed?

(a) Students receiving the bilingual instruction described in § 100.39(c) must be reassessed for both limited English proficiency and relative language proficiency within two years of first receiving these services, and annually thereafter.

(b)(1) To reassess a limited-English-proficient student a recipient may use an assessment procedure that was different from the one used to assess the student initially.

(2) However, the reassessment procedure must meet the standards required for initial assessment procedures described in § 100.38.
Cross-reference: See 34 CFR 100.36, 100.37, and 100.38.
(42 U.S.C. 2000d et seq.)

§ 100.43 What must a recipient do to avoid racial or ethnic isolation?

(a) Subject to the requirements in paragraphs (b), (c), and (d) of this section, the assignment of students to classes or instructional groups in a manner necessary to comply with the provisions of this subpart is not a violation of Title VI of the 1964 Civil Rights Act.

(b) Recipients must be able to show that they are using the least segregative method of meeting the requirements of this subpart.

(c) Limited-English-proficient students may not be assigned to separate classes in art, music, physical education, or extra-curricular activities nor given separate locations or times for meals and recess.

(d) No student having a primary language other than English may be assigned to a racially or ethnically identifiable class for more than one-half of the student's regular school day unless the recipient demonstrates that no other available, less segregative method of instruction is effective for that student. For purposes of this subpart, students' regular school day refers to the period beginning when the students in the same grade formally assemble to begin regular instruction and ends when these students are dismissed from such instruction.
(42 U.S.C. 2000d et seq.)

§ 100.44 What are minimum staff requirements?

(a) School districts must make every reasonable effort to identify, recruit, and employ a sufficient number of qualified bilingual education teachers to provide eligible students with required services.

(1) A sufficient number of qualified bilingual education teachers is the number necessary to ensure that the pupil-teacher ratio in classrooms offering this type of instruction will be at least comparable (i.e., within two students per teacher) to that for the same grade and for similar subjects taught in English.

(2) Employment of qualified bilingual education teachers who are not used to provide required services does not satisfy the requirements of this section.

(b) A recipient will be in compliance with the personnel requirements of this subpart even if it has been unable to obtain sufficient numbers of qualified bilingual education teachers when all of the following conditions are met:

(1) The recipient is assisting and encouraging its present staff to become qualified.

(2) If the recipient is obtaining a qualified bilingual education teacher through the additional training of an employee, the recipient can reasonably anticipate that the employee will become qualified within 5 years of the start of training if he or she is already a teacher, or within 6 years if he or she was not a teacher when training began.

(3) The recipient uses other bilingual individuals to provide services in the interim.

(4)(i) The recipient develops a detailed written plan describing the steps it will take to obtain qualified bilingual education teachers and to provide required services on an emergency basis.

(ii) The recipient documents its efforts to meet the objectives of its plan, reviews the plan annually, and improves upon it whenever possible.
(42 U.S.C. 2000d et seq.)

§§ 100.45 Must educational programs consider the cultural backgrounds of eligible students?

(a) Subject to paragraph (b) of this section, a recipient's educational programs and activities shall be operated with respect for the culture and cultural heritage of the recipient's limited-English-proficient students.

(b) A recipient is not required to make any changes in its educational programs and activities unless they have the effect of excluding students from effective participation in the recipient's programs on the basis of race or national origin.
(42 U.S.C. 2000d et seq.)

§§ 100.46 Is a parent or guardian required to permit his or her child to participate?

Nothing in this subpart restricts the right of a parent or guardian of a limited-English-proficient student to refuse placement in, or to withdraw the student from, any program to which the student is entitled under this subpart.
(42 U.S.C. 2000d et seq.)

§§ 100.47 What are the parental notification requirements?

(a) Recipients must accurately, fully, and fairly inform parents or guardians within five days of any placement decisions made concerning their child.

(b) A responsible school official must inform parents or guardians of --

(1) The purpose and nature of the services to which their child is entitled;

(2) The reasons for their child's placement in classes providing the service;

(3) Their right to refuse placement in, or withdraw the student from, any program to which the student is entitled and choose placement in an educational program generally provided to students who are not limited-English-proficient; and

(4) The educational consequences that could result from failure to receive this assistance.

(c) The information required under paragraph (b) of this section must be provided in a language that the parent or guardian fully understands.
(42 U.S.C. 2000d et seq.)

§ 100.48 Can additional instruction be provided?

This subpart does not limit a recipient's right to offer instruction in or through a language other than English or to provide instruction in the literature, history, or culture of groups with a language other than English.
(42 U.S.C. 2000d et seq.)

§ 100.49 To what services are limited-English-proficient handicapped students entitled?

(a) Procedures to identify, evaluate, and place limited-English-proficient students who may be handicapped and eligible for special education and related services must take into account their language characteristics so that language background does not affect the outcome of these procedures.

(b) Where such a student is entitled to instruction through a language other than English, such instruction or appropriate equivalent instruction must be provided.

(c) The procedures to identify, evaluate, and place handicapped limited-English-proficient students must otherwise adhere to the requirements of 34 CFR 104, Subpart D, pertaining to nondiscrimination on the basis of handicap.
(42 U.S.C. 2000d et seq.)

§ 100.50 When may the Secretary waive or modify the requirements of this subpart?

The Secretary may waive or modify the requirements of this subpart under the following circumstances:

(a) Enrollment increase.

(1) The recipient requests in writing a waiver for a limited period because of a substantial, rapid, unforeseen increase in the enrollment of limited-English-proficient students.

(2) The recipient submits a proposal for the development of a plan that will show how and when the recipient will return to compliance with the requirements of this subpart.

(3) The request is accompanied by appropriate evidence that documents the recipient's enrollment and inability to meet the requirements of this subpart.

(b) Pilot programs.

(1) The recipient requests in writing a partial waiver of the requirements of this subpart in order to conduct a limited pilot program using other approaches designed to fulfill the purpose of this subpart. The Secretary may approve programs that --

(i) Are designed to demonstrate a more cost-effective approach to meeting the purpose of this subpart;

(ii) Are designed to demonstrate improved approaches to meeting the purpose of this subpart that are capable of adaptation or adoption by other recipients; or

(iii) Implement an innovative project conducted under an approved grant or contract with any agency of the Federal Government.

(2) The request is accompanied by the following:

(i) Evidence showing a substantial likelihood that the effort will be effective in fulfilling the stated purpose of this subpart.

(ii) A description of procedures that will be used to evaluate the effectiveness of the pilot program. The first evaluation results must be available within two years of the date the waiver was granted.

(iii) A description of the personnel, program of instruction, tests, and materials that will be used in the pilot program.

(iv) A statement of the terms and conditions under which the recipient will discontinue the pilot program.

(v) Should the program prove successful, a plan for expansion of the program and, if the recipient chooses, a plan for replication of the program.

(vi) Evidence that the recipient is in compliance with the requirements of this subpart.

(c) Existing Alternative Programs.

(1) The recipient requests in writing a waiver of personnel and services requirements of this subpart in order to operate an alternative program designed to meet the purpose of this subpart.

(2) The program for which a waiver is sought was in existence during the school year prior to the year in which these regulations became effective.

(3) The request is accompanied by evidence comparing students who have received assistance under the existing program with otherwise comparable students who are not entitled to bilingual instruction under this subpart and are enrolled in the same grade. The comparison group may be either local, statewide, or national and must show similar results on the following factors:

(i) Achievement in reading and mathematics.

(ii) School dropout rate.

(iii) School attendance rate.

(iv) Average age in each grade.

(4) The recipient provides information about school matters to parents in a language the parents understand.

(5) The recipient describes the personnel, program of instruction, tests, and materials specifically used in the program.

(6) The recipient agrees to reevaluate its program every two years and to discontinue the program if the results of the evaluation show that the program is no longer achieving the results described in paragraph (c)(3) of this section.
(42 U.S.C. 2000d et seq.)

§ 100.51 What action is required to remedy a violation of the requirements of this subpart?

(a) When a recipient is found to have violated the provisions of this subpart, the recipient must take such remedial action as the Secretary may require to correct the violation and to overcome its effects.

(b) If another recipient exercises control over the noncomplying recipient, both recipients may be required to take action to correct the violation and to overcome its effects.

(c) A recipient who has violated the provisions of this subpart must submit a plan, describing in detail how the recipient will eliminate the violation and overcome the effects of the violation on its students. This may include remedial instruction in the required subjects in which a student has been denied the services required by this subpart.

(1) Plans may be amended at any time with the mutual consent of the Secretary or his or her designee and the recipient.

(2) Failure to comply with the terms and conditions of this plan constitutes a violation of Title VI of the 1964 Civil Rights Act.
(42 U.S.C. 2000d et seq.)

§ 100.52 What records must a recipient keep?

(a) Each recipient shall maintain adequate records to establish that it is in compliance with this subpart.

(b) The records shall show the following:

(1) The number, grade level, and relative language proficiency of limited-English-proficient students in each school.

(2) A summary description of the programs being offered these students.

(3) The number of qualified bilingual education teachers and the number of other bilingual individuals by language in each school who are providing required bilingual instruction.

(4) The number of qualified bilingual education teachers, by language, necessary to provide required bilingual instruction.

(5) Representative samples of information sent to parents or guardians in a language other than English.

(6) A record of assessment procedures and results or other documentation to show that the assessment procedures being used to determine eligibility for services meet the requirements of this subpart.
(42 U.S.C. 2000d et seq.)

§ 100.53 What requirements apply to recipients using other languages for instruction?

(a) The provisions of this subpart shall apply to recipients whose primary language of instruction is not English.

(b) In the case of recipients of this type, the language the recipient ordinarily uses to provide instruction shall be deemed substituted for "English" wherever this word is used in this subpart.
(42 U.S.C. 2000d et seq.)

[FR Doc. 80-23276 Filed 8-4-80; 8:45 am]
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Part III

Department of Health and Human Services

Social Security Administration

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations reorganize and restate in simpler language the rules on determinations, administrative review, the representation of parties under titles II and XVI of the Social Security Act, and payment procedures under title II. These are the rules on (1) initial determinations; (2) the administrative review process, including reconsideration, hearing, and Appeals Council review; (3) the reopening and revision of final determinations or decisions; (4) the representation of a person by someone else in dealings with us; and (5) payment procedures for title II.

We have rewritten and reorganized the existing regulations to make them clearer and easier for the public to use. Although no substantive changes have been made in the existing regulations, several provisions have been added to reflect current practice and several provisions have been clarified.

The Notice of Proposed Rule Making (NPRM) was published in the Federal Register on April 4, 1979 (44 FR 20176) with a 60-day comment period.

DATES: These amendments are effective August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Legal Assistant, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7519.

SUPPLEMENTARY INFORMATION: These regulations are being revised and reorganized as part of HEW's Operation Common Sense, which is a Department-wide effort to review, simplify, and improve HEW's regulations. The regulations presented here carry out sections 205, 206, 207, 1102, 1631(c), and 1631(d)(2) of the Social Security Act.

Determinations, the Administrative Review Process, and Reopenings

The regulations on determinations, the administrative review process, and reopenings of claims under titles II and XVI describe (1) initial determinations; (2) the procedures that must be followed and the conditions that must be met to have a reconsideration, hearing, Appeals Council review, or judicial review; and (3) the conditions under which a determination or decision may be reopened and revised. These rules are substantially the same under both programs.

Representation of Parties

The regulations on the representation of parties in proceedings under titles II and XVI of the Social Security Act concern the right of a person to appoint a representative to deal with us, the role of a representative, fees payable to a representative, and the conduct of a representative.

Title II Payment Procedures

The regulations on title II payment procedures explain how we certify title II benefit payments after making a favorable determination, how in certain cases we expedite the payment of benefits, when we may make joint payments to members of a family, when we may delay certifying payments, and what our policy is on the assignment or transfer of benefit payments.

Changes Made by the Final Rules

1. To clarify when a decision may not be reviewed by a Federal district court, the new regulations state that if the Appeals Council dismisses a request for administrative review, the action is binding on the parties and not subject to further review. The effect of a dismissal and the circumstances under which a dismissal may occur are explained in §§ 404.971, 404.972, 416.1471 and 416.1472.

2. The time period for filing briefs or other written statements about your case with the Appeals Council has been increased from 10 to 20 days. This change is reflected in §§ 404.977 and 416.1477.

3. We changed the title II regulation that states when a determination or a decision on a revision of an earnings record may be reopened. Section 404.990 changes the time period for requesting reopening from 6 months to 60 days. This change conforms the time period to the other time periods for requesting administrative review.

4. The provisions of Subpart J of Part 404 that govern the procedures for determining and reviewing whether a person meets the requirements for entitlement to hospital insurance benefits and supplementary medical insurance benefits as described in 42 CFR Part 405 were removed from the regulations. Although the provisions are removed, they are not repealed and will continue to apply to the Health Care Financing Administration (HCFA) until new regulations are published by HCFA.

5. We rewrote the rules on the representation of parties in proceedings under title II that were in Subpart J of Part 404 and moved them to a new Subpart R. This makes these rules easier to locate and gives them the same organization as the corresponding rules on the representation of parties under title XVI which are located in Subpart O of Part 416.

6. The provisions of Subpart J that govern the representation of parties in matters concerning entitlement to hospital insurance benefits and supplementary medical insurance benefits were removed from the new Subpart R. Although the provisions are removed, they are not terminated and will continue to apply until new regulations are published by the Health Care Financing Administration.

7. The only change in the rules governing the representation of parties is the addition of the requirement that a person submit to us a written notice that an attorney has been appointed as his or her representative. Under the prior regulations, written notice was required only if the representative was not an attorney. The change is made to reflect our current practice and to assure that we have the name and address of any person designated to act as a representative. The purpose of this requirement is to protect confidential personal information from unauthorized disclosure, while facilitating its release to designated representatives. These requirements are stated in §§ 404.1707 and 416.1507.

8. We rewrote the title II payment procedures that were in Subpart J of Part 404 and placed them in a new Subpart S. A new provision was added to reflect a change in the law that subjects title II benefit payments to legal process brought to enforce a child support or alimony obligation.

Response to Public Comments

In response to the Notice of Proposed Rule Making we received 35 comments: 20 from legal aid organizations, 13 from administrative law judges, and two from other members of the public. Since our objective in this recodification is to clarify, by simpler language and improved organization, the existing regulatory provisions so that they will be more easily understood by members of the public, the comments we received were very useful in preparing the final version of the regulations. Several revisions, discussed below, were made as a result of these comments.

Discussion of Public Comments

Changes We Made

As the result of the public comments we received, we have made the following revisions in the final regulations.

1. *Examples of good cause for late filing.* A commenter noted that proposed §§ 404.909(b)(3) and 416.1409(b)(3) omitted one of the examples, which was in the prior regulations, of circumstances where there was good cause for missing a deadline to request review. The example was omitted because we did not believe that it was necessary to list all of the examples that had been in the prior regulations. As the commenter found the longer list of examples helpful, we have inserted the omitted example as paragraph (b)(9) of §§ 404.911 and 416.1411 of the final regulations.

2. *Reconsideration determinations.* A commenter indicated that in a reconsidered determination, we should give "specific reasons" for the determination. Proposed §§ 404.917 and 416.1417 relating to the notice of a reconsidered determination, stated that the "reasons" for the determination would be given. This change in language did not reflect any change in policy. To make that clear, we have reinserted the adjective "specific" in these sections of the final regulations relating to the notice of a reconsidered determination. In the final regulations these sections are numbered §§ 404.921 and 416.1421.

3. *Hearing procedures.* Several commenters suggested that we should include in the regulations specific statements requiring an administrative law judge to inquire fully into the matters at issue and to follow procedures at the hearing which will afford the parties a reasonable opportunity for a fair hearing. The commenters were concerned that, by not including these specific statements, the recodification reflected a change in the hearing requirements. This was not our intention. Neither the proposed nor the final rules lessen in any way the responsibility of an administrative law judge to give claimants a fair hearing. In the final regulations, we have rewritten proposed §§ 404.935 and 416.1435 to include a more detailed statement of the general hearing procedure. In the final regulations, these sections are numbered 404.944 and 416.1444.

4. *Extension of time to request judicial review.* Several commenters noted that the proposed regulations omitted the provision in the prior regulations which indicated when we would permit an extension of time for filing an action in a Federal district court. We agree that such a provision should be included in the final regulations. Accordingly, we have added §§ 404.982 and 416.1482.

5. *Authority of a representative.* Commenters indicated that a claimant's representative should be permitted to assist the claimant in filing an application. We agree and that is SSA's present policy. Sections 404.1710(b) and 416.1510(b) have been revised in the final regulations to make this clear and also to make clear that a representative may not sign an application on behalf of the claimant unless authorized to do so under the rules governing the filing of applications in §§ 404.612 or 416.315.

6. *Notices to representatives.* Many commenters asked that we state in the regulations that notices of determinations and decisions will be mailed to an authorized representative, if there is one, as well as to the claimant of title II or title XVI benefits. Present policy, which has not changed, is to send a copy of title II and title XVI determinations and decisions to authorized and designated representatives. Before this recodification, this policy was reflected in three sections of the title XVI regulations (§§ 416.1404, 416.1483 and 416.1515) and one section of the title II regulations (§ 404.973). In the NPRM, we stated the policy in proposed §§ 404.1715 and 416.1515. In the final regulations, we have revised these two sections to make the policy clear.

Changes We Did Not Make

For the reasons stated below, we did not agree that the final regulations should be revised to include other changes suggested by commenters, and we did not adopt the following suggestions.

1. *Eliminate reconsideration.* A commenter recommended that we should eliminate reconsideration as a step in the administrative review process. The commenter believes that too few initial determinations are changed at the reconsideration level to justify requiring claimants to go through reconsideration before they can have a hearing. We require reconsideration as a necessary step to a hearing because we are convinced it is advantageous to the claimant and makes the administrative appeals process more effective. If the initial determination is upheld on reconsideration, the person is given a more detailed explanation of the determination than was provided in the initial denial letter. If a person has any doubt as to whether his or her claim was considered fairly in the first instance, that doubt is often removed upon reconsideration. If in any case the person is not satisfied with the reconsidered determination, a hearing may be requested. Because the written reconsideration determination states the issues in dispute, our findings of fact, the provisions of the law which apply, and our conclusions, the claimant is fully advised of the reasons why SSA adjudicated the claim as it did. In those cases where the claimant continues to be dissatisfied, the reconsideration determination clearly facilitates the hearing process. For these reasons, we continue to believe that reconsideration is an essential step in the process of administrative review.

2. *Change the expedited appeals process.* One commenter recommended that the expedited appeals process be eliminated, and several commenters recommended that it be available when the legal validity of a regulation—as well as the constitutionality of a statute—was challenged. Under existing law, a person may seek judicial review only if he or she has received an adverse initial determination and has exhausted his or her rights to administrative review. Administrative review includes reconsideration, hearing and Appeals Council review. In cases where the only issue in dispute is the constitutionality of a statutory provision, exhaustion of the rights to adminstrative review is futile for the claimant. In that situation, the expedited appeals process is available. We have found it to be helpful and time-saving. However, in instances where issues other than the constitutionality of a statute may be in dispute, the exhaustion of administrative remedies serves a clearly useful purpose, since it avoids time-consuming and often expensive judicial intervention in cases where the agency has authority to address the claimant's complaint. Further, we do not believe the Social Security Act would authorize us to extend the expedited appeals process to other situations. Thus, the exhaustion of administrative remedies remains a requirement for judicial review.

3. *Provide assistance for hearing-impaired claimants.* A commenter recommended that we include in the regulations a requirement that we provide a certified sign language interpreter for any hearing-impaired person who has requested a hearing. Administrative law judges now have the authority to secure assistance for hearing-impaired claimants. We do not believe it is necessary to include in the regulations procedures for requesting such assistance.

4. *Include the list of exhibits with a hearing decision.* Several commenters recommended that we state in the regulations that a list of documents

presented as exhibits at a hearing will be included as a part of the hearing decision. A list of the documents presented as exhibits is included as part of the hearing decision. We do not believe that it is necessary to include this as a regulatory provision.

5. *Permit a representative to appeal on behalf of a claimant even though we have not received his or her written notice of appointment.* Several commenters recommended that we change §§ 404.1707(a) and 416.1507(a) to provide that a representative who has not yet sent us written notice of his or her appointment may still appeal on behalf of a claimant, as long as we get a later written notice of the appointment. The commenter believed this change would keep some appeals from being dismisse becaused they were not timely filed. The recommended change in the regulations is unnecessary because they do not require that we receive a written notice of appointment before an appeal is effective. We have, however, changed §§ 404.1707 and 416.1507 to make clear that either the claimant or the representative may file the notice of appointment.

6. *Transcription of hearing records.* Several commenters thought that the proposed regulations governing the preparation of a hearing transcript (proposed §§ 404.940 and 416.1440) represented a change in policy in that we would no longer prepare a typed copy of a hearing transcript if judicial review was not timely sought or if we asked the court to remand a case to us for further consideration. In the proposed rules, we stated our general policy and two exceptions. The general policy is that we prepare a transcript whenever a civil action is filed against us. As to the first exception, we do not prepare a transcript when a civil action is not timely filed, unless we find that there was good cause for the late filing. The reason is that in those circumstances the case should be dismissed, and it is not necessary to have a transcript of the hearing record for purposes of the dismissal. The second exception applies in certain situations when we ask the court to remand the case to us for further consideration. If we request a remand, a transcript is not prepared. This should clarify the policy and the two exceptions, which are restated in §§ 404.951 and 416.1451 of the final regulations.

7. *Provide time limits for issuing determinations and decisions on benefit claims.* In proposed § 416.1442, changed to § 416.1453 in the final regulations, which governs the administrative review of claims for supplemental security income benefits, there is a time limit for the issuance of hearing decisions on non-disability issues. Several commenters recommended that we establish a similar time limit for the issuance of determinations and decisions involving other benefit claims. We have not included such a provision here because both the Congress and SSA are currently considering mandating time limits in the administrative review process. Indeed, we have already published a notice of proposed rulemaking (45 FR 12837–12844, February 27, 1980), proposing time limits for holding hearings, for issuing hearing decisions, and for Appeals Council actions, in both title II and title XVI cases. This will give members of the public an opportunity to comment upon the proposal before it becomes final.

8. *Withhold attorney fees from past-due title XVI benefits.* Several commenters recommended that we withhold past-due title XVI benefits, as we do past-due title II benefits, for direct payment to an attorney who has represented a claimant. We have no statutory authority to withhold title XVI benefits for that purpose.

9. *Improve our notices.* Several commenters suggested that the regulations require that our notices meet certain standards for specificity and clarity. We agree that they should. Moreover, several steps have already been taken toward that end, and more will be done. However, we would prefer at this time deferring the regulatory changes suggested by the commenters.

Other Changes

In addition to the changes we made as a result of the public comments, we made several other changes in the final regulations to reflect policy and procedures that are in effect under present regulations. These changes are as follows.

1. Proposed §§ 404.930 and 416.1430 were revised to clarify that, with very limited exceptions, hearings are not held outside the United States. The exceptions for title II claims are American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands. With respect to title XVI claims, the exception is the Northern Mariana Islands. See, §§ 404.936 and 416.1436 of the final regulations.

2. Proposed §§ 404.959 and 416.1459 were revised to clarify when a case will be remanded by the Appeals Council to an administrative law judge and the procedures that are followed when there is a remand. See, §§ 404.977 and 416.1477 of the final regulations. Proposed §§ 404.960 and 416.1460 were revised to clarify the procedures that are followed when a case is remanded by a Federal court to the Appeals Council for further consideration. See, §§ 404.983 and 416.1483 of the final regulations.

3. Proposed §§ 404.968 and 416.1468 were revised to make clear that when a hearing decision is revised, the revision may be reviewed by the Appeals Council; or if the revision is based on evidence that was not in the hearing record, any party to the revised decision may request a hearing. See, §§ 404.992 and 416.1492 of the final regulations.

4. For reasons of clarity and consistency, we made a number of eeditorial changes. Also, we made several changes to reflect the January 1979 reorganization of SSA.

Change not Included in These Regulations

Pre-Recoupment Personal Conferences in Title II Overpayment Cases

On June 20, 1979 the Supreme Court in *Califano* v. *Yamasaki* decided that a person who receives an overpayment of title II benefits and requests waiver of the overpayment, must be given the opportunity to have a personal conference on the request before we take any action to recover the overpayment. The Court's decision rests on section 204(b) of the Social Security Act which states that when a title II ovepayment occurs, we shall not reduce future benefits, or otherwise recover an overpayment, from any person who is without fault in causing the overpayment, if such adjustment or recovery would either defeat the purpose of title II or be against equity and good conscience. Provisions refflecting the Court's decision have not been included in this recodification because we intend to publish those regulations separately with a notice of proposed rulemaking (NPRM). The NPRM will give members of the public an opportunity to comment on these regulations before they become final.

The proposed regulations with these changes are adopted as set forth below.

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.804 Social Security—Special Benefits for Persons Aged 72 and Over; 13.805 Social Security—Survivors' Insurance)

Dated: June 4, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: July 21, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

1. Subpart J of Part 404 is revised to read as follows:

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

Authority: Secs. 205 and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 405 and 1302).

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

Introduction, Definitions, and Initial Determinations

§ 404.900 Introduction.

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your rights under title II of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review after you have taken all the necessary administrative steps. The administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

(1) *Initial determination.* This is a determination we make about your entitlement or your continuing entitlement to benefits or about any other matter, as discussed in § 404.902, that gives you a right to further review.

(2) *Reconsideration.* If you are dissatisfied with an initial determination, you may ask us to reconsider it. Generally, you must request a reconsideration before you may request a hearing.

(3) *Hearing.* If you are dissatisfied with the reconsideration determination, you may request a hearing before an administrative law judge.

(4) *Appeals Council review.* If you are dissatisfied with the decision of the administrative law judge, you may request that the Appeals Council review the decision.

(5) *Federal court review.* When you have completed the steps of the administrative review process listed in paragraphs (a)(1) through (a)(4) of this section, we will have made our final decision. If you are dissatisfied with our final decision, you may request judicial review by filing an action in a Federal district court.

(6) *Expedited appeals process.* At some time after your initial determination has been reviewed, if you have no dispute with our findings of fact and our application and interpretation of the controlling laws, but you believe that a part of the law is unconstitutional, you may use the expedited appeals process. This process permits you to go directly to a Federal district court so that the constitutional issue may be resolved.

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, nonadversary

manner. In each step of the review process, you may present any information you feel is helpful to your case. We will consider it and all the information in our records. You may present the information yourself or have someone represent you, including an attorney. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review, unless you can show us that there was good cause for your failure to make a timely request for review.

§ 404.901 Definitions.

As used in this subpart:

"Date you receive notice" means 5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period.

"Decision" means the decision made by an administrative law judge or the Appeals Council.

"Determination" means the initial determination or the reconsidered determination.

"Remand" means to return a case for further review.

"Vacate" means to set aside a previous action.

"Waive" means to give up a right knowingly and voluntarily.

"We," "us," or "our" refers to the Social Security Administration.

"You" or "your" refers to any person claiming a right under the old age, disability, dependents' or survivors' benefits program.

§ 404.902 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. In the old age, disability, dependents' and survivors' insurance programs, initial determinations include, but are not limited to, determinations about—

(a) Your entitlement or your continuing entitlement to benefits;

(b) Your reentitlement to benefits;

(c) The amount of your benefit;

(d) A recomputation of your benefit;

(e) A reduction in your disability benefits because you also receive benefits under a workmen's compensation law;

(f) A deduction from your benefits on account of work;

(g) A deduction from your disability benefits because you refuse to accept rehabilitation services;

(h) Termination of your benefits;

(i) Penalty deductions imposed because you failed to report certain events;

(j) Any overpayment or underpayment of your benefits;

(k) Whether an overpayment of benefits must be repaid to us;

(l) How an underpayment of benefits due a deceased person will be paid;

(m) The establishment or termination of a period of disability;

(n) A revision of your earnings record;

(o) Whether the payment of your benefits will be made, on your behalf, to a representative payee, unless you are under age 18 or legally incompetent; and

(p) Who will act as your payee if we determine that representative payment will be made.

§ 4049.03 Administrative actions that are not initial determinations.

Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by this subpart, and they are not subject to judicial review. These actions include, but are not limited to, an action—

(a) Suspending benefits pending an investigation and determination of any factual issue relating to a deduction on account of work;

(b) Suspending benefits pending an investigation to determine if your disability has ceased;

(c) Denying a request to be made a representative payee;

(d) Certifying two or more family members for joint payment of benefits;

(e) Withholding less than the full amount of your monthly benefit to recover an overpayment;

(f) Determining the fee that may be charged or received by a person who has represented you in connection with a proceeding before us;

(g) Disqualifying or suspending a person from acting as your representative in a proceeding before us (See § 404.1745);

(h) Compromising, suspending or terminating collection of an overpayment under the Federal Claims Collection Act;

(i) Extending or not extending the time to file a report of earnings;

(j) Denying your request to extend the time period for requesting review of a determination or a decision;

(k) Denying your request to use the expedited appeals process;

(l) Denying your request to reopen a determination or a decision; and

(m) Withholding temporarily benefits based on a wage earner's estimate of earnings to avoid creating an overpayment.

§ 404.904 Notice of the initial determination.

We shall mail a written notice of the initial determination to you at your last known address. The reasons for the initial determination and the effect of the initial determination will be stated in the notice. The notice also informs you of the right to a reconsideration or to a hearing. We will not mail a notice if the beneficiary's entitlement to benefits has ended because of his or her death.

§ 404.905 Effect of an initial determination.

An initial determination is binding unless you request a reconsideration or a hearing, as appropriate, within the stated time period, or we revise the initial determination.

Reconsideration

§ 404.907 Reconsideration—general.

Reconsideration is the first step in the administrative review process that we provide if you are dissatisfied with the initial determination. However, if the initial determination is that your blindness or disability has ceased due to medical reasons, and you have a right to a hearing on the same issue in connection with a claim for supplemental security income benefits, your first step is to request a hearing right after the initial determination. If you are dissatisfied with our reconsidered determination, you may request a hearing.

§ 404.908 Parties to a reconsideration.

(a) *Who may request a reconsideration.* If you are dissatisfied with the initial determination, you may request that we reconsider it. In addition, a person who shows in writing that his or her rights may be adversely affected by the initial determination may request a reconsideration.

(b) *Who are parties to a reconsideration.* After a request for the reconsideration, you and any person who shows in writing that his or her rights are adversely affected by the initial determination will be parties to the reconsideration.

§ 404.909 How to request reconsideration.

(a) We shall reconsider an initial determination if you or any other party to the reconsideration files a written request—

(1) Within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in paragraph (b) of this section);

(2) At one of our offices, the Veterans Administration Regional Office in the

Philippines, or an office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry.

(b) *Extension of time to request a reconsideration.* If you want a reconsideration of the initial determination but do not request one in time, you may ask us for more time to request a reconsideration. Your request for an extension of time must be in writing and must give the reasons why the request for reconsideration was not filed within the stated time period. If you show us that you had good cause for missing the deadline, we will extend the time period. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.911 Good cause for missing the deadline to request review.

(a) In determining whether you have shown that you had good cause for missing a deadline to request review we consider—

(1) What circumstances kept you from making the request on time;

(2) Whether our action misled you;

(3) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions.

(b) Examples of circumstances where good cause may exist include, but are not limited to, the following situations:

(1) You were seriously ill and were prevented from contacting us in person, in writing, or through a friend, relative, or other person.

(2) There was a death or serious illness in your immediate family.

(3) Important records were destroyed or damaged by fire or other accidental cause.

(4) You were trying very hard to find necessary information to support your claim but did not find the information within the stated time periods.

(5) You asked us for additional information explaining our action within the time limit, and within 60 days of receiving the explanation you requested reconsideration or a hearing, or within 30 days of receiving the explanation you requested Appeal Council review or filed a civil suit.

(6) We gave you incorrect or incomplete information about when and how to request administrative review or to file a civil suit.

(7) You did not receive notice of the determination or decision.

(8) You sent the request to another Government agency in good faith within the time limit and the request did not reach us until after the time period had expired.

(9) Unusual or unavoidable circumstances exist which show that you could not have known of the need to file timely, or which prevented you from filing timely.

§ 404.917 Notice of another person's request for reconsideration.

If any other person files a request for reconsideration of the initial determination in your case, we shall notify you at your last known address before we reconsider the initial determination. We shall also give you an opportunity to present any evidence you think helpful to the reconsidered determination.

§ 404.918 Reconsidered determination.

After you or another person requests a reconsideration, we shall review the evidence considered in making the initial determination and any other evidence we receive. We shall make our determination based on this evidence.

§ 404.920 Effect of a reconsidered determination.

The reconsidered determination is binding unless—

(a) You or any other party to the reconsideration requests a hearing within the stated time period and a decision is made;

(b) The expedited appeals process is used; or

(c) The reconsidered determination is revised.

§ 404.921 Notice of a reconsidered determination.

We shall mail a written notice of the reconsidered determination to the parties at their last known address. We shall state the specific reasons for the determination and tell you and any other parties of the right to a hearing. If it is appropriate, we will also tell you and any other parties how to use the expedited appeals process.

Expedited Appeals Process

§ 404.923 Expedited appeals process—general.

By using the expedited appeals process you may go directly to a Federal district court without first completing the administrative review process that is generally required before the court will hear your case.

§ 404.924 When the expedited appeals process may be used.

You may use the expedited appeals process if all of the following requirements are met:

(a) We have made an initial and a reconsidered determination; an administrative law judge has made a hearing decision; or Appeals Council review has been requested, but a final decision has not been issued.

(b) You are a party to the reconsidered determination or the hearing decision.

(c) You have submitted a written request for the expedited appeals process.

(d) You have claimed, and we agree, that the only factor preventing a favorable determination or decision is a provision in the law that you believe is unconstitutional.

(e) If you are not the only party, all parties to the determination or decision agree to request the expedited appeals process.

§ 404.925 How to request expedited appeals process.

(a) *Time of filing request.* You may request the expedited appeals process—

(1) Within 60 days after the date you receive notice of the reconsidered determination (or within the extended time period if we extend the time as provided in paragraph (c) of this section);

(2) At any time after you have filed a timely request for a hearing but before you receive notice of the administrative law judge's decision;

(3) Within 60 days after the date you receive a notice of the administrative law judge's decision or dismissal (or within the extended time period if we extend the time as provided in paragraph (c) of this section); or

(4) At any time after you have filed a timely request for Appeals Council review, but before you receive notice of the Appeals Council's action.

(b) *Place of filing request.* You may file a written request for the expedited appeals process at one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry.

(c) *Extension of time to request expedited appeals process.*

If you want to use the expedited appeals process but do not request it within the stated time period, you may ask for more time to submit your request. Your request for an extension of time must be in writing and must give the reasons why the request for the expedited appeals process was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.926 Agreement in expedited appeals process.

If you meet all the requirements necessary for the use of the expedited

appeals process, our authorized representative shall prepare an agreement. The agreement must be signed by you, by every other party to the determination or decision and by our authorized representative. The agreement must provide that—

(a) The facts in your claim are not in dispute;

(b) The sole issue in dispute is whether a provision of the Act that applies to your case is unconstitutional;

(c) Except for your belief that a provision of the Act is unconstitutional, you agree with our interpretation of the law;

(d) If the provision of the Act that you believe is unconstitutional were not applied to your case, your claim would be allowed; and

(e) Our determination or the decision is final for the purpose of seeking judicial review.

§ 404.927 Effect of expedited appeals process agreement.

After an expedited appeals process agreement is signed, you will not need to complete the remaining steps of the administrative review process. Instead, you may file an action in a Federal district court within 60 days after the date the agreement is signed by our authorized representative.

§ 404.928 Expedited appeals process request that does not result in agreement.

If you do not meet all of the requirements necessary to use the expedited appeals process, we shall tell you that your request to use this process is denied and that your request will be considered as a request for a hearing or Appeals Council review, whichever is appropriate.

Hearings

§ 404.929 Hearing—general.

If you are dissatisfied with one of the determinations or decisions listed in § 404.930 you may request a hearing. The Associate Commissioner for Hearings and Appeals, or his or her delegate, shall appoint an administrative law judge to conduct the hearing. If circumstances warrant, the Associate Commissioner, or his or her delegate, may assign your case to another administrative law judge. At the hearing you may appear in person, submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she shall issue a decision based on the hearing record. If you waive your right to appear at the hearing, the administrative law judge will make a decision based on the evidence that is in the file and any new evidence that may have been submitted for consideration.

§ 404.930 Availability of a hearing.

(a) You may request a hearing if we have made—

(1) A reconsidered determination;

(2) A revised determination of an initial or reconsidered determination;

(3) An initial determination that your blindness or disability has ceased due to medical reasons, and you have a right to a hearing on the same issue in connection with a claim for supplemental security income benefits; or

(4) A revised decision based on evidence not included in the record on which the prior decision was based.

(b) We will hold a hearing only if you or another party to the hearing file a written request for a hearing.

§ 404.932 Parties to a hearing.

(a) *Who may request a hearing.* You may request a hearing if a hearing is available under § 404.930. In addition, a person who shows in writing that his or her rights may be adversely affected by the decision may request a hearing.

(b) *Who are parties to a hearing.* After a request for a hearing is made, you, the other parties to the initial, reconsidered, or revised determination, and any other person who shows in writing that his or her rights may be adversely affected by the hearing, are parties to the hearing. In addition, any other person may be made a party to the hearing if his or her rights may be adversely affected by the decision, and the administrative law judge notifies the person to appear at the hearing or to present evidence supporting his or her interest.

§ 404.933 How to request a hearing.

(a) *Written request.* You may request a hearing by filing a written request. You should include in your request—

(1) The name and social security number of the wage earner;

(2) The reasons you disagree with the previous determination or decision;

(3) A statement of additional evidence to be submitted and the date you will submit it; and

(4) The name and address of any designated representative.

(b) *When and where to file.* The request must be filed—

(1) Within 60 days after the date you receive notice of the previous determination or decision (or within the extended time period if we extend the time as provided in paragraph (c) of this section);

(2) At one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board for persons having 10 or more years of service in the railroad industry.

(c) *Extension of time to request a hearing.* If you have a right to a hearing but do not request one in time, you may ask for more time to make your request. The request for an extension of time must be in writing and it must give the reasons why the request for a hearing was not filed within the stated time period. You may file your request for an extension of time at one of our offices. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.935 Submitting evidence before a hearing.

If possible, the evidence or a summary of evidence you wish to have considered at the hearing should be submitted to the administrative law judge with the request for hearing or within 10 days after filing the request. Each party shall make every effort to be sure that all material evidence is received by the administrative law judge or is available at the time and place set for the hearing.

§ 404.936 Time and place for a hearing.

(a) The administrative law judge sets the time and place for the hearing. He or she may change the time and place, if it is necessary. After sending the parties reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies the parties of a hearing decision. Hearings are held in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico and the Virgin Islands.

(b) If you object to the time or place of the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objection and the time or place you want the hearing to be held. The administrative law judge may change the time or place for the hearing if you show good cause for the change.

§ 404.938 Notice of a hearing.

After the administrative law judge sets the time and place for the hearing, notice of the hearing will be mailed to the parties at their last known address or given by personal service, unless you

have indicated in writing that you do not wish to receive this notice. The notice will be mailed or served at least 10 days before the hearing. It will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings.

§ 404.939 Objections to the issues.

If you object to the issues to be decided upon at the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objections. The administrative law judge shall make a decision on your objections either in writing or at the hearing.

§ 404.940 Disqualification of the administrative law judge.

An administrative law judge shall not conduct a hearing if he or she is prejudiced or partial with respect to any party or has any interest in the matter pending for decision. If you object to the administrative law judge who will conduct the hearing, you must notify the administrative law judge at your earliest opportunity. The administrative law judge shall consider your objections and shall decide whether to proceed with the hearing or withdraw. If he or she withdraws, the Associate Commissioner for Hearings and Appeals, or his or her delegate, will appoint another administrative law judge to conduct the hearing. If the administrative law judge does not withdraw, you may, after the hearing, present your objections to the Appeals Council as reasons why the hearing decision should be revised or a new hearing held before another administrative law judge.

§ 404.941 Prehearing case review.

(a) *General.* After a hearing is requested but before it is held, we may, for the purposes of a prehearing case review, forward the case to the component of our office (including a State agency) that issued the determination being reviewed. That component will decide whether the determination may be revised. A revised determination may be wholly or partially favorable to you. A prehearing case review will not delay the scheduling of a hearing unless you agree to continue the review and delay the hearing. If the prehearing case review is not completed before the date of the hearing, the case will be sent to the administrative law judge unless a favorable revised determination is in process or you and the other parties to the hearing agree in writing to delay the hearing until the review is completed.

(b) *When a prehearing case review may be conducted.* We may conduct a prehearing case review if—

(1) Additional evidence is submitted;

(2) There is an indication that additional evidence is available;

(3) There is a change in the law or regulation; or

(4) There is an error in the file or some other indication that the prior determination may be revised.

(c) *Notice of a prehearing revised determination.* If we revise the determination in a prehearing case review, we shall mail written notice of the revised determination to all parties at their last known address. We shall state the basis for the revised determination and advise all parties of their right to request a hearing on the revised determination within 60 days after the date or receiving this notice.

(d) *Revised determination wholly favorable.* If the revised determination is wholly favorable to you, we shall tell you in the notice that the administrative law judge will dismiss the hearing request unless a party requests that the hearing proceed. A request to continue must be made in writing within 30 days after the date the notice of the revised determination is mailed.

(e) *Revised determination partially favorable.* If the revised determination is partially favorable to you, we shall tell you in the notice what was not favorable. We shall also tell you that the hearing you requested will be held unless you, the parties to the revised determination and the parties to the hearing tell us that all parties agree to dismiss the hearing request.

Hearing Procedures

§ 404.944 Hearing procedures—general.

A hearing is open to the parties and to other persons the administrative law judge considers necessary and proper. At the hearing, the administrative law judge looks fully into the issues, questions you and the other witnesses, and accepts as evidence any documents that are material to the issues. The administrative law judge may stop the hearing temporarily and continue it at a later date if he or she believes that there is material evidence missing at the hearing. The administrative law judge may also reopen the hearing at any time before he or she mails a notice of the decision in order to receive new and material evidence. The administrative law judge may decide when the evidence will be presented and when the issues will be discussed.

§ 404.946 Issues before the administrative law judge.

(a) *General.* The issues before the administrative law judge include all the issues brought out in the initial, reconsidered or revised determination that were not decided entirely in your favor. However, if evidence presented before or during the hearing causes the administrative law judge to question a fully favorable determination, he or she will notify you and will consider it an issue at the hearing.

(b) *New issues.*— (1) *General.* The administrative law judge may consider a new issue at the hearing if he or she notifies you and all the parties about the new issue any time after receiving the hearing request and before mailing notice of the hearing decision. The administrative law judge or any party may raise a new issue; an issue may be raised even though it arose after the request for a hearing and even though it has not been considered in an initial or reconsidered determination. However, it may not be raised if it involves a claim that is within the jurisdiction of a State agency under a Federal-State agreement concerning the determination of disability.

(2) *Notice of a new issue.* The administrative law judge shall notify you and any other party if he or she will consider any new issue. Notice of the time and place of the hearing on any new issues will be given in the manner described in § 404.938, unless you have indicated in writing that you do not wish to receive the notice.

§ 404.948 Deciding a case without an oral hearing.

(a) *Decision wholly favorable.* If the evidence in the hearing record supports a finding in favor of you and all the parties on every issue, the administrative law judge may issue a hearing decision without holding an oral hearing. However, the notice of the decision will inform you that you have the right to an oral hearing and that you have a right to examine the evidence on which the decision is based.

(b) *Parties do not wish to appear.* (1) The administrative law judge may decide a case on the record and not conduct an oral hearing if—

(i) You and all the parties indicate in writing that you do not wish to appear before the administrative law judge at an oral hearing; or

(ii) You live outside the United States and you do not inform us that you want to appear and there are no other parties who wish to appear.

(2) When an oral hearing is not held, the administrative law judge shall make a record of the material evidence. The

record will include the applications, written statements, certificates, reports, affidavits, and other documents that were used in making the determination under review and any additional evidence you or any other party to the hearing present in writing. The decision of the administrative law judge must be based on this record.

(c) *Case remanded for a revised determination.* (1) The administrative law judge may remand a case to the appropriate component of our office for a revised determination if there is reason to believe that the revised determination would be fully favorable to you. This could happen if the administrative law judge receives new and material evidence or if there is a change in the law that permits the favorable determination.

(2) Unless you request the remand, the administrative law judge shall notify you that your case has been remanded and tell you that if you object, you must notify him or her of your objections within 10 days of the date the case is remanded or we will assume that you agree to the remand. If you object to the remand, the administrative law judge will consider the objection and rule on it in writing.

§ 404.949 Presenting written statements and oral arguments.

You or a person you designate to act as your representative may appear before the administrative law judge to state your case, to present a written summary of your case, or to enter written statements about the facts and law material to your case in the record. A copy of your written statements should be filed for each party.

§ 404.950 Presenting evidence at a hearing.

(a) *The right to appear and present evidence.* Any party to a hearing has the right to appear before the administrative law judge, either personally or by means of a designated representative, to present evidence and to state his or her position.

(b) *Waiver of the right to appear.* You may send the administrative law judge a waiver or a written statement indicating that you do not wish to appear at the hearing. You may withdraw this waiver any time before a notice of the hearing decision is mailed to you. Even if all of the parties waive their right to appear at a hearing, the administrative law judge may notify them of a time and a place for an oral hearing, if he or she believes that a personal appearance and testimony by you or any other party is necessary to decide the case.

(c) *What evidence is admissible at a hearing.* The administrative law judge may receive evidence at the hearing even though the evidence would not be admissible in court under the rules of evidence used by the court.

(d) *Subpoenas.* (1) When it is reasonably necessary for the full presentation of a case, an administrative law judge or a member of the Appeals Council may, on his or her own initiative or at the request of a party, issue subpoenas for the appearance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to an issue at the hearing.

(2) Parties to a hearing who wish to subpoena documents or witnesses must file a written request for the issuance of a subpoena with the administrative law judge or at one of our offices at least 5 days before the hearing date. The written request must give the names of the witnesses or documents to be produced; describe the address or location of the witnesses or documents with sufficient detail to find them; state the important facts that the witness or document is expected to prove; and indicate why these facts could not be proven without issuing a subpoena.

(3) We will pay the cost of issuing the subpoena.

(4) We will pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

(e) *Witnesses at a hearing.* Witnesses may appear at a hearing. They shall testify under oath or affirmation, unless the administrative law judge finds an important reason to excuse them from taking an oath or affirmation. The administrative law judge may ask the witnesses any questions material to the issues and shall allow the parties or their designated representatives to do so.

(f) *Collateral estoppel—issues previously decided.* An issue at your hearing may be a fact that has already been decided in one of our previous determinations or decisions in a claim involving the same parties, but arising under a different title of the Act or under the Federal Coal Mine Health and Safety Act. If this happens, the administrative law judge will not consider the issue again, but will accept the factual finding made in the previous determination or decision unless there are reasons to believe that it was wrong.

§ 404.951 When a record of a hearing is made.

The administrative law judge shall make a complete record of the hearing proceedings. The record will be prepared as a typed copy of the proceedings if—

(a) The case is sent to the Appeals Council without a decision or with a recommended decision by the administrative law judge;

(b) You seek judicial review of your case by filing an action in a Federal district court within the stated time period, unless we request the court to remand the case; or

(c) An administrative law judge or the Appeals Council asks for a written record of the proceedings.

§ 404.952 Consolidated hearings.

(a) *General.* (1) A consolidated hearing may be held if—

(i) You have requested a hearing to decide your benefit rights under title II of the Act and you have also requested a hearing to decide your rights under another law we administer; and

(ii) One or more of the issues to be considered at the hearing you requested are the same issues that are involved in another claim you have pending before us.

(2) If the administrative law judge decides to hold the hearing on both claims, he or she decides both claims, even if we have not yet made an initial or reconsidered determination on the other claim.

(b) *Record, evidence, and decision.* There will be a single record at a consolidated hearing. This means that the evidence introduced in one case becomes evidence in the other(s). The administrative law judge may make either a separate or consolidated decision.

§ 404.953 The administrative law judge's decision.

(a) *General.* The administrative law judge shall issue a written decision that gives the findings of fact and the reasons for the decision. The decision must be based on evidence offered at the hearing or otherwise included in the record. The administrative law judge shall mail a copy of the decision to all the parties at their last known address. The Appeals Council may also receive a copy of the decision.

(b) *Recommended decision.* Although an administrative law judge will usually make an initial decision, where appropriate he or she may send the case to the Appeals Council with a recommended decision. Also, if a Federal district court remands a case to the Appeals Council, and the Appeals Council remands the case to an administrative law judge the case must be returned to the Appeals Council with a recommended decision. The

administrative law judge shall mail a copy of the recommended decision to the parties at their last known address and send the recommended decision to the Appeals Council.

§ 404.955 The effect of the administrative law judge's decision.

The decision of the administrative law judge is binding on all parties to the hearing unless—

(a) You or another party request a review of the decision by the Appeals Council within the stated time period, and the Appeals Council reviews your case;

(b) You or another party requests a review of the decision by the Appeals Council within the stated time period, the Appeals Council denies your request for review, and you seek judicial review of your case by filing an action in a Federal district court;

(c) The decision is revised by an administrative law judge or the Appeals Council under the procedures explained in § 404.987;

(d) The expedited appeals process is used; or

(e) The decision is a recommended decision directed to the Appeals Council.

§ 404.956 Removal of hearing request to the Appeals Council.

If you have requested a hearing and the request is pending before an administrative law judge, the Appeals Council may assume responsibility for holding a hearing by requesting that the administrative law judge send the hearing request to it. If the Appeals Council holds a hearing, it shall conduct the hearing according to the rules for hearings before an administrative law judge. Notice shall be mailed to all parties at their last known address telling them that the Appeals Council has assumed responsibility for the case.

§ 404.957 Dismissal of a request for a hearing.

An administrative law judge may dismiss a request for a hearing under any of the following conditions:

(a) At any time before notice of the hearing decision is mailed, you or the party or parties that requested the hearing ask to withdraw the request. This request may be submitted in writing to the administrative law judge or made orally at the hearing.

(b) Neither you nor the person you designate to act as your representative appears at the time and place set for the hearing and—

(1) Before the time set for the hearing you did not give the administrative law judge a good reason why you or your representative could not appear; or

(2) Within 10 days after the administrative law judge mails you a notice asking why you did not appear, you do not give a good reason for the failure to appear.

(c) The administrative law judge decides that there is cause to dismiss a hearing request entirely or to refuse to consider any one or more of the issues because—

(1) The doctrine of *res judicata* applies in that we have made a previous determination or decision under this subpart about your rights on the same facts and on the same issue or issues, and this previous determination or decision has become final by either administrative or judicial action;

(2) The person requesting a hearing has no right to it under § 404.930;

(3) You did not request a hearing within the stated time period and we have not extended the time for requesting a hearing under § 404.933(c); or

(4) You die, there are no other parties, and we have no information to show that another person may be adversely affected by the determination that was to be reviewed at the hearing. However, dismissal of the hearing request will be vacated if, within 60 days after the date of the dismissal, another person submits a written request for a hearing on the claim and shows that he or she may be adversely affected by the determination that was to be reviewed at the hearing.

§ 404.958 Notice of dismissal of a hearing request.

We shall mail a written notice of the dismissal of the hearing request to all parties at their last known address. The notice will state that there is a right to request that the Appeals Council vacate the dismissal action.

§ 404.959 Effect of dismissal of a hearing request.

The dismissal of a request for a hearing is binding, unless it is vacated by an administrative law judge or the Appeals Council.

§ 404.960 Vacating a dismissal of a hearing request.

An administrative law judge or the Appeals Council may vacate any dismissal of a hearing request if, within 60 days after the date you receive the dismissal notice, you request that the dismissal be vacated and show good cause why the hearing request should not have been dismissed. The Appeals Council itself may decide within 60 days after the notice of dismissal is mailed to vacate the dismissal. The Appeals Council shall advise you in writing of any action it takes.

§ 404.961 Prehearing and posthearing conferences.

The administrative law judge may decide on his or her own, or at the request of any party to the hearing, to hold a prehearing or posthearing conference to facilitate the hearing or the hearing decision. The administrative law judge shall tell the parties of the time, place and purpose of the conference at least seven days before the conference date, unless the parties have indicated in writing that they do not wish to receive a written notice of the conference. At the conference, the administrative law judge may consider matters in addition to those stated in the notice, if the parties consent in writing. A record of the conference will be made. The administrative law judge shall issue an order stating all agreements and actions resulting from the conference. If the parties do not object, the agreements and actions become part of the hearing record and are binding on all parties.

Appeals Council Review

§ 404.967 Appeals Council review general.

If you or any other party is dissatisfied with the hearing decision or with the dismissal of a hearing request, you may request that the Appeals Council review that action. The Appeals Council may deny or dismiss the request for review, or it may grant the request and either issue a decision or remand the case to an administrative law judge. The Appeals Council shall notify the parties at their last known address of the action it takes.

§ 404.968 How to request Appeals Council review.

(a) *Time and place to request Appeals Council review.* You may request Appeals Council review by filing a written request. Any documents or other evidence you wish to have considered by the Appeals Council should be submitted with your request for review. You may file your request—

(1) Within 60 days after the date you receive notice of the hearing decision or dismissal (or within the extended time period if we extend the time as provided in paragraph (b) of this section);

(2) At one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry.

(b) *Extension of time to request review.* You or any party to a hearing decision may ask that the time for filing a request for the review be extended. The request for an extension of time must be in writing. It must be filed with the Appeals Council, and it must give the reasons why the request for review

was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.969 Appeals Council initiates review.

Anytime within 60 days after the date of a hearing decision or dismissal, the Appeals Council itself may decide to review the action that was taken. If the Appeals Council does review the hearing decision or dismissal, notice of the action will be mailed to all parties at their last known address.

§ 404.970 Cases the Appeals Council will review.

(a) The Appeals Council will review a case if—

(1) There appears to be an abuse of discretion by the administrative law judge;

(2) There is an error of law;

(3) The action, findings or conclusions of the administrative law judge are not supported by substantial evidence; or

(4) There is a broad policy or procedural issue that may affect the general public interest.

(b) If new and material evidence is submitted with the request for review, the Appeals Council shall evaluate the entire record. It will then review the case if it finds that the administrative law judge's action, findings, or conclusion is contrary to the weight of the evidence currently in the record.

§ 404.971 Dismissal by Appeals Council.

The Appeals Council will dismiss your request for review if you did not file your request within the stated period of time and the time for filing has not been extended. The Appeals Council may also dismiss any proceedings before it if—

(a) You and any other party to the proceedings files a written request for dismissal; or

(b) You or any other party to the proceedings dies and the record clearly shows that dismissal will not adversely affect any other person who wishes to continue the action.

§ 404.972 Effect of dismissal of request for Appeals Council review.

The dismissal of a request for Appeals Council review is binding and not subject to further review.

§ 404.973 Notice of Appeals Council review.

When the Appeals Council decides to review a case, it shall mail a notice to all parties at their last known address stating the reasons for the review and the issues to be considered.

§ 404.974 Obtaining evidence from Appeals Council.

You may request and receive copies or a statement of the documents or other written evidence upon which the hearing decision or dismissal was based and a copy or summary of the transcript of oral evidence. However, you will be asked to pay the costs of providing these copies unless there is a good reason why you should not pay.

§ 404.975 Filing briefs with the Appeals Council.

Upon request, the Appeals Council shall give you and all other parties a reasonable opportunity to file briefs or other written statements about the facts and law relevant to the case. A copy of each brief or statement should be filed for each party.

§ 404.976 Procedures before Appeals Council on review.

(a) *Limitation of issues.* The Appeals Council may limit the issues it considers if it notifies you and the other parties of the issues it will review.

(b) *Evidence.* The Appeals Council will consider the evidence in the hearing record and any additional evidence it believes is material to an issue being considered. If the Appeals Council decides that more evidence is needed, it may remand the case to an administrative law judge to receive evidence and issue a new decision. However, if the Appeals Council decides that it can obtain the information more quickly, it may do so unless it will adversely affect your rights.

(c) *Oral argument.* You may request to appear before the Appeals Council to present oral argument. The Appeals Council will grant your request if it decides that your case raises an important question of law or policy or that oral argument would help to reach a proper decision. If your request to appear is granted, the Appeals Council will tell you the time and place of the oral argument at least 10 days before the scheduled date.

§ 404.977 Case remanded by Appeals Council.

(a) *When the Appeals Council may remand a case.* The Appeals Council may remand a case to an administrative law judge so that he or she may hold a hearing and issue a decision or a recommended decision. The Appeals Council may also remand a case in which additional evidence is needed or additional action by the administrative law judge is required.

(b) *Action by administrative law judge on remand.* The administrative law judge shall take any action that is ordered by the Appeals Council and may take any additional action that is not inconsistent with the Appeals Council's remand order.

(c) *Notice when case is returned with a recommended decision.* When the administrative law judge sends a case to the Appeals Council with a recommended decision, a notice is mailed to the parties at their last known address. The notice tells them that the case has been sent to the Appeals Council, explains the rules for filing briefs or other written statements with the Appeals Council, and includes a copy of the recommended decision.

(d) *Filing briefs with and obtaining evidence from the Appeals Council.* (1) You may file briefs or other written statements about the facts and law relevant to your case with the Appeals Council within 20 days of the date that the recommended decision is mailed to you. Any party may ask the Appeals Council for additional time to file briefs or statements. The Appeals Council will extend this period, as appropriate, if you show that you had good cause for missing the deadline.

(2) All other rules for filing briefs with and obtaining evidence from the Appeals Council follow the procedures explained in this subpart.

(e) *Procedures before the Appeals Council.* (1) The Appeals Council, after receiving a recommended decision, will conduct its proceedings and issue its decision according to the procedures explain in this subpart.

(2) If the Appeals Council believes that more evidence is required, it may again remand the case to an administrative law judge for further inquiry into the issues, rehearing, receipt of evidence, and another decision or recommended decision. However, if the Appeals Council decides that it can get the additional evidence more quickly, it will take appropriate action.

§ 404.979 Decision of Appeals Council.

After it has reviewed all the evidence in the hearing record and any additional evidence received, the Appeals Council will make a decision or remand the case to an administrative law judge. The Appeals Council may affirm, modify or reverse the hearing decision or it may adopt, modify or reject a recommended decision. A copy of the Appeals Council's decision will be mailed to the parties at their last known address.

§ 404.981 Effect of Appeals Council's decision or denial of review.

The Appeals Council may deny a party's request for review or it may decide to review a case and make a decision. The Appeals Council's decision, or the decision of the

administrative law judge if the request for review is denied, is binding unless you or another party file an action in Federal district court, or the decision is revised. You may file an action in a Federal district court within 60 days after the date you receive notice of the Appeals Council's action.

§ 404.982 Extension of time to file action in Federal district court.

Any party to the Appeals Council's decision or denial of review, or to an expedited appeals process agreement, may request that the time for filing an action in a Federal district court be extended. The request must be in writing and it must give the reasons why the action was not filed within the stated time period. The request must be filed with the Appeals Council, or if it concerns an expedited appeals process agreement, with one of our offices. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 404.911.

§ 404.983 Case remanded by Federal court.

When a Federal court remands a case to the Appeals Council for further consideration, the Appeals Council may make a decision, or it may remand the case to an administrative law judge with instructions to take action and return the case to the Appeals Council with a recommended decision. If the case is remanded by the Appeals Council, the procedures explained in § 404.977 will be followed.

Reopening and Revising Determinations and Decisions

§ 404.987 Reopening and revising determinations and decisions.

(a) *General.* Generally, if you are dissatisfied with a determination or decision made in the administrative review process, but do not request further review within the stated time period, you lose your right to further review. However, a determination or a decision made in your case may be reopened and revised. After we reopen your case, we may revise the earlier determination or decision.

(b) *Procedure for reopening and revision.* You may ask that a determination or a decision to which you were a party be revised. The conditions under which we will reopen a previous determination or decision are explained in § 404.988.

§ 404.988 Conditions for reopening.

A determination, revised determination, decision, or revised decision may be reopened—

(a) Within 12 months of the date of the notice of the initial determination, for any reason;

(b) Within four years of the date of the notice of the initial determination if we find good cause, as defined in § 404.989, to reopen the case; or

(c) At any time if—

(1) It was obtained by fraud or similar fault;

(2) Another person files a claim on the same earnings record and allowance of the claim adversely affects your claim;

(3) A person previously determined to be dead, and on whose earnings record your entitlement is based, is later found to be alive;

(4) Your claim was denied because you did not prove that the insured person died, and the death is later established by reason of an unexplained absence from his or her residence for a period of 7 years;

(5) The Railroad Retirement Board has awarded duplicate benefits on the same earnings record;

(6) It either—

(i) Denies the person on whose earnings record your claim is based gratuitous wage credits for military or naval service because another Federal agency (other than the Veterans Administration) has erroneously certified that it has awarded benefits based on the service; or

(ii) Credits the earnings record of the person on which your claim is based with gratuitous wage credits and another Federal agency (other than the Veterans Administration) certifies that it has awarded a benefit based on the period of service for which the wage credits were granted;

(7) It finds that the claimant did not have insured status, but earnings for the appropriate period of time were later credited to his or her earnings record;

(8) It is wholly or partially unfavorable to a party, but only to correct clerical error or an error that appears on the face of the evidence that was considered when the determination or decision was made; or

(9) It finds that you are entitled to monthly benefits or to a lump sum death payment based on the earnings of a deceased person, and it is later established that you were finally convicted by a court of competent jurisdiction of the felonious and intentional homicide of the deceased person.

§ 404.989 Good cause for reopening.

(a) We will find that there is good cause to reopen a determination or decision if—

(1) New and material evidence is furnished;

(2) A clerical error in the computation or recomputation of benefits was made; or

(3) The evidence that was considered in making the determination or decision clearly shows on its face that an error was made.

(b) We will not find good cause to reopen your case if the only reason for reopening is a change of legal interpretation or adminstrative ruling upon which the determination or decision was made.

§ 404.990 Finality of determinations and decisions on revision of an earnings record.

A determination or a decision on a revision of an earnings record may be reopened only within the time period and under the conditions provided in section 205(c) (4) or (5) of the Act, or within 60 days after the date you receive notice of the determination or decision, whichever is later.

§ 404.991 Finality of determinations and decisions to suspend benefit payments for entire taxable year because of earnings.

A determination or decision to suspend benefit payments for an entire taxable year because of earnings may be reopened only within the time period and under the conditions provided in section 203(h)(1)(B) of the Act.

§ 404.992 Notice of revised determination or decision.

(a) When a determination or decision is revised, notice of the revision will be mailed to the parties at their last known address. The notice will state the basis for the revised determination or decision and the effect of the revision. The notice will also inform the parties of the right to further review.

(b) If an administrative law judge or the Appeals Council proposes to revise a decision, and the revision would be based on evidence not included in the record on which the prior decision was based, you and any other parties to the decision will be notified of the proposed action and of your right to request that a hearing be held before any further action is taken. If a revised decision is issued by an administrative law judge, you and any other party may request that it be reviewed by the Appeals Council, or the Appeals Council may review the decision on its own initiative.

(c) If an administrative law judge or the Appeals Council proposes to revise a decision, and the revision would be

based only on evidence included in the record on which the prior decision was based, you and any other parties to the decision will be notified of the proposed action. If a revised decision is issued by an administrative law judge, you and any other party may request that it be reviewed by the Appeals Council, or the Appeals Council may review the decision on its own initiative.

§ 404.993 Effect of revised determination or decision.

A revised determination or decision is binding unless—

(a) You or another party to the revised determination file a written request for a hearing;

(b) You or another party to the revised decision file, as appropriate, a request for review by the Appeals Council or a hearing;

(c) The Appeals Council reviews the revised decision; or

(d) The revised determination or decision is further revised.

§ 404.994 Time and place to request a hearing on revised determination or decision.

You or another party to a revised determination or decision may request, as approporiate, further review or a hearing on the revision by filing a request in writing at one of our offices within 60 days after the date you receive notice of the revision. Further review or a hearing will be held on the revision according to the rules of this subpart.

§ 404.995 Finality of findings when later claim is filed on same earnings record.

If two claims for benefits are filed on the same earnings records, findings of fact made in a determination on the first claim may be revised in determining or deciding the second claim, even though the time limit for revising the findings made in the first claim has passed. However, a finding in connection with a claim that a person was fully or currently insured at the time of filing an application, at the time of death, or any other pertinent time, may be revised only under the conditions stated in § 404.988.

2. A new Subpart R is added to Part 404 to read as follows:

Subpart R—Representation of Parties

Authority: Secs. 205, 206, and 1102 of the Social Security Act, 53 Stat. 1368, 53 Stat. 1372, 49 Stat. 647; (42 U.S.C. 405, 406, and 1302).

Subpart R—Representation of Parties

§ 404.1700 Introduction.

You may appoint someone to represent you in any of your dealings with us. This subpart explains, among other things—

(a) Who may be your representative and what his or her qualifications must be;

(b) How you appoint a representative;

(c) The payment of fees to a representative;

(d) Our rules that representatives must follow; and

(e) What happens to a representative who breaks the rules.

§ 404.1703 Definitions.

As used in this subpart—

"Past-due benefits" means the total amount of benefits payable under title II of the Act to all beneficiaries that has accumulated because of a favorable administrative or judicial determination or decision, up to but not including the month the determination or decision is made.

"Representative" means an attorney who meets all of the requirements of § 404.1705(a), or a person other than an attorney who meets all of the requirements of § 404.1705(b), and whom you appoint to represent you in dealings with us.

"We," "our," or "us" refers to the Social Security Administration.

"You" or "your" refers to any person claiming a right under the old-age, disability, dependents', or survivors' benefits program.

§ 404.1705 Who may be your representative.

(a) *Attorney.* You may appoint as your representative in dealings with us, any attorney in good standing who—

(1) Has the right to practice law before a court of a State, Territory, District, or island possession of the United States, or before the Supreme Court or a lower Federal court of the United States;

(2) Is not disqualified or suspended from acting as a representative in dealings with us; and

(3) Is not prohibited by any law from acting as a representative.

(b) *Person other than attorney.* You may appoint any person who is not an attorney to be your representative in dealings with us if he or she—

(1) Is generally known to have a good character and reputation;

(2) Is capable of giving valuable help to you in connection with your claim;

(3) Is not disqualified or suspended from acting as a representative in dealings with us; and

(4) Is not prohibited by any law from acting as a representative.

§ 404.1707 Appointing a representative.

We will recognize a person as your representative if the following things are done:

(a) You sign a written notice stating that you want the person to be your representative in dealings with us.

(b) That person signs the notice, agreeing to be your representative, if the person is not an attorney. An attorney does not have to sign a notice of appointment.

(c) The notice is filed at one of our offices if you have initially filed a claim or have requested reconsideration; with an administrative law judge if you requested a hearing; or with the Appeals Council if you have requested a review of the administrative law judge's decision.

§ 404.1710 Authority of a representative.

(a) *What a representative may do.* Your representative may, on your behalf—

(1) Obtain information about your claim to the same extent that you are able to do;

(2) Submit evidence;

(3) Make statements about facts and law; and

(4) Make any request or give any notice about the proceedings before us.

(b) *What a representative may not do.* A representative may not sign an

application on behalf of a claimant for rights or benefits under title II of the Act unless authorized to do so under § 404.612.

§ 404.1715 Notice or request to a representative.

(a) We shall send your representative—

(1) Notice and a copy of any administrative action, determination, or decision; and

(2) Requests for information or evidence.

(b) A notice or request sent to your representative, will have the same force and effect as if it had been sent to you.

§ 404.1720 Fee for a representative's services.

(a) *General.* A representative may charge and receive a fee for his or her services as a representative only as provided in paragraph (b) of this section.

(b) *Charging and receiving a fee.* (1) The representative must file a written request with us before he or she may charge or receive a fee for his or her services.

(2) We decide the amount of the fee, if any, a representative may charge or receive.

(3) A representative shall not charge or receive any fee unless we have approved it, and he or she shall not charge or receive any fee that is more than the amount we approve. This rule applies whether the fee is charged to or received from you or from someone else.

(4) If the representative is an attorney and the claimant is entitled to past-due benefits, we will pay the authorized fee, or a part of the authorized fee, directly to the attorney out of the past-due benefits, subject to the limitations described in § 404.1730(b)(1). If the representative is not an attorney, we assume no responsibility for the payment of any fee that we have authorized.

(c) *Notice of fee determination.* We shall mail to both you and your representative at your last known address a written notice of what we decide about the fee. We shall state in the notice—

(1) The amount of the fee that is authorized;

(2) How we made that decision;

(3) That we are not responsible for paying the fee, except when we may pay an attorney from past-due benefits; and

(4) That within 30 days of the date of the notice, either you or your representative may request us to review the fee determination.

(d) *Review of fee determination.*—(1) *Request filed on time.* We will review the decision we made about a fee if either you or your representative files a written request for the review at one of our offices within 30 days after the date of the notice of the fee determination. Either you or your representative, whoever requests the review, shall mail a copy of the request to the other person. An authorized official of the Social Security Administration who did not take part in the fee determination being questioned will review the determination. This determination is not subject to further review. The official shall mail a written notice of the decision made on review both to you and to your representative at your last known address.

(2) *Request not filed on time.* (i) If you or your representative requests a review of the decision we made about a fee, but does so more than 30 days after the date of the notice of the fee determination, whoever makes the request shall state in writing why it was not filed within the 30-day period. We will review the determination if we decide that there was good cause for not filing the request on time.

(ii) Some examples of good cause follow:

(A) Either you or your representative was seriously ill and the illness prevented you or your representative from contacting us in person or in writing.

(B) There was a death or serious illness in your family or in the family of your representative.

(C) Material records were destroyed by fire or other accidental cause.

(D) We gave you or your representative incorrect or incomplete information about the right to request review.

(E) You or your representative did not timely receive notice of the fee determination.

(F) You or your representative sent the request to another government agency in good faith within the 30-day period, and the request did not reach us until after the period had ended.

(3) *Payment of fees.* We assume no responsibility for the payment of a fee based on a revised determination if the request for administrative review was not filed on time.

§ 404.1725 Request for approval of a fee.

(a) *Filing a request.* In order for your representative to obtain approval of a fee for services he or she performed in dealings with us, he or she shall file a written request with one of our offices. This should be done after the proceedings in which he or she was a representative are completed. The request must contain—

(1) The dates the representative's services began and ended;

(2) A list of the services he or she gave and the amount of time he or she spent on each type of service;

(3) The amount of the fee he or she wants to charge for the services;

(4) The amount of fee the representative wants to request or charge for his or her services in the same matter before any State or Federal court;

(5) The amount of and a list of any expenses the representative incurred for which he or she has been paid or expects to be paid;

(6) A description of the special qualifications which enabled the representative, if he or she is not an attorney, to give valuable help in connection with your claim; and

(7) A statement showing that the representative sent a copy of the request for approval of a fee to you.

(b) *Evaluating a request for approval of a fee.* (1) When we evaluate a representative's request for approval of a fee, we consider the purpose of the social security program, which is to provide a measure of economic security for the beneficiaries of the program, together with—

(i) The extent and type of services the representative performed;

(ii) The complexity of the case;

(iii) The level of skill and competence required of the representative in giving the services;

(iv) The amount of time the representative spent on the case;

(v) The results the representative achieved;

(vi) The level of review to which the claim was taken and the level of the review at which the representative became your representative; and

(vii) The amount of fee the representative requests for his or her services, including any amount authorized or requested before, but not including the amount of any expenses he or she incurred.

(2) Although we consider the amount of benefits, if any, that are payable, we do not base the amount of fee we authorize on the amount of the benefit alone, but on a consideration of all the factors listed in this section. The benefits payable in any claim are determined by specific provisions of law and are unrelated to the efforts of the representative. We may authorize a fee even if no benefits are payable.

§ 404.1728 Proceedings before a State or Federal court.

(a) *Representation of a party in court proceedings.* We shall not consider any service the representative gave you in

any proceeding before a State or Federal court to be services as a representative in dealings with us. However, if the representative also has given service to you in the same connection in any dealings with us, he or she must specify what, if any, portion of the fee he or she wants to charge is for services performed in dealings with us. If the representative charges any fee for those services, he or she must file the request and furnish all of the information required by § 404.1725.

(b) *Attorney fee allowed by a Federal court.* If a Federal court in any proceeding under title II of the Act makes a judgment in favor of a claimant who was represented before the court by an attorney, and the court, under Section 206(b) of the Act, allows to the attorney as part of its judgment a fee not in excess of 25 percent of the total of past-due benefits to which the claimant is entitled by reason of the judgment, we may pay the attorney the amount of the fee out of, but not in addition to, the amount of the past-due benefits payable. We will not certify for direct payment any other fee your representative may request.

§ 404.1730 Payment of fees.

(a) *Fees allowed by a Federal court.* We will pay a representative who is an attorney, out of the claimant's past-due benefits, the amount of fee allowed by a Federal court in a proceeding under title II of the Act. The payment we make to the attorney is subject to the limitations described in paragraph (b)(1) of this section.

(b) *Fees we may authorize.*—(1) *Attorneys.* Except as provided in paragraph (c) of this section, if we make a determination or decision in favor of a claimant who was represented by an attorney, and as a result of the determination or decision past-due benefits are payable, we will pay the attorney out of the past-due benefits the smallest of—

(i) Twenty-five percent of the total of the past-due benefits;

(ii) The amount of the fee that we set; or

(iii) The amount agreed upon between the attorney and the claimant represented.

(2) *Persons other than attorneys.* If the representative is not an attorney, we assume no responsibility for the payment of any fee that we have authorized. We will not deduct the fee from any benefits payable to the claimant represented.

(c) *Time limit for filing request for approval of attorney fee.* (1) In order to receive direct payment of a fee from a claimant's past-due benefits, an attorney should file a request for approval of a fee, or written notice of the intent to file a request, at one of our offices within 60 days of the date the notice of the favorable determination is mailed.

(2)(i) If no request is filed within 60 days of the date the notice of the favorable determination is mailed, we will mail a written notice to the attorney and to the claimant, at their last known addresses. The notice will inform the attorney and the claimant that unless the attorney files, within 20 days from the date of the notice, a written request for approval of a fee under § 404.1725, or a written request for an extension of time, we will pay all the past-due benefits to the claimant.

(ii) The attorney must send the claimant a copy of any request made to us for an extension of time. If the request is not filed within 20 days of the date of the notice, or by the last day of any extension we approved, we will pay all past-due benefits to the claimant. Any fee the attorney charges after that time must be approved by us, but the collection of any approved fee is a matter between the attorney and the claimant represented.

§ 404.1735 Services in a proceeding under title II of the Act.

Services provided a claimant in any dealing with us under title II of the Act consist of services performed for that claimant in connection with any claim he or she may have before the Secretary of Health, and Human Services under title II of the Act. These services include any in connection with any asserted right a claimant may have calling for an initial or reconsidered determination by us, and a decision or action by an administrative law judge or by the Appeals Council.

§ 404.1740 Rules governing representatives.

No attorney or other person representing a claimant shall—

(a) With intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten by word, circular, letter, or advertisement, either oral or written, any claimant or prospective claimant or beneficiary regarding benefits, or other initial or continued right under the Act;

(b) Knowingly charge or collect, or make any agreement to charge or collect, directly or indirectly, any fee in any amount in excess of that allowed by us or by the court;

(c) Knowingly make or participate in the making or presentation of any false statement, representation, or claim about any material fact affecting the rights of any person under title II of the Act; or

(d) Divulge, except as may be authorized by regulations prescribed by us, any information we furnish or disclose about the claim or prospective claim of another person.

§ 404.1745 What happens to a representative who breaks the rules.

Our Deputy Commissioner (Operations) or the Director (or Deputy Director) of our Office of Insurance Programs may begin proceedings to suspend or disqualify a person from acting as a representative in dealings with us if it appears that he or she—

(a) Has violated any of the rules in § 404.1740;

(b) Has been convicted of a violation under section 206 of the Act; or

(c) Has otherwise refused to comply with our rules and regulations on representing claimants in dealings with us.

§ 404.1750 Notice of charges against a representative.

(a) The Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs will prepare a notice containing a statement of charges that constitutes the basis for the proceeding against the representative.

(b) We will send this notice to the representative either by certified or registered mail, to his or her last known address, or by personal delivery.

(c) We will advise the representative to file an answer, within 30 days from the date of the notice, or from the date the notice was delivered personally, stating why he or she should not be suspended or disqualified from acting as a representative in dealings with us.

(d) The Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs may extend the 30-day period for good cause.

(e) The representative must—

(1) Answer the notice in writing under oath (or affirmation); and

(2) File the answer with the Social Security Administration, Office of Insurance Programs, 6401 Security Boulevard, Baltimore, Maryland 21235, within the 30-day time period.

(f) If the representative does not file an answer within the 30-day time period, he or she does not have the right to present evidence, except as may be provided in § 404.1765(f).

§ 404.1755 Withdrawing charges against a representative.

We may withdraw charges against a representative. We will do this if the representative files an answer, or we

obtain evidence, that satisfies us that there is reasonable doubt about whether he or she should be suspended or disqualified from acting as a representative in dealings with us. If we withdraw the charges, we shall notify the representative by mail at his or her last known address.

§ 404.1760 Referring charges to the Office of Hearings and Appeals.

If we do not take action to withdraw the charges against the representative before 15 days have passed after the time within which he or she has filed an answer, we shall send the record of the evidence in support of the charges to the Office of Hearings and Appeals. We will ask that they hold a hearing and make a decision on the charges.

§ 404.1765 Hearing on charges.

(a) *Hearing officer.* (1) When the Office of Hearings and Appeals receives the notice of charges against the representative, the record of evidence, and the request for a hearing, the Associate Commissioner for Hearings and Appeals or his or her delegate shall name an administrative law judge, designated to act as a hearing officer, to hold a hearing on the charges.

(2) No hearing officer shall hold a hearing in a case in which he or she is prejudiced or partial about any party, or has any interest in the matter.

(3) If the representative or any party to the hearing objects to the hearing officer who has been named to hold the hearing, we must be notified at the earliest opportunity. The hearing officer shall consider the objection(s) and either proceed with the hearing or withdraw from it.

(4) If the hearing officer withdraws from the hearing, another one will be named.

(5) If the hearing officer does not withdraw, the representative or any other person objecting may, after the hearing, present his or her objections to the Appeals Council explaining why he or she believes the hearing officer's decision should be revised or a new hearing held by another administrative law judge designated to act as a hearing officer.

(b) *Time and place of hearing.* The hearing officer shall mail the representative a written notice of the hearing, at his or her last known address, at least 20 days before the date set for the hearing. The hearing officer shall send a copy of the notice to the Deputy Commissioner (Operations) or to the Director (or Deputy Director) of the Office of Insurance Programs.

(c) *Change of time and place for hearing.* (1) The hearing officer may change the time and place for the hearing. This may be done either on his or her own initiative, or at the request of the representative or the other party to the hearing.

(2) The hearing officer may adjourn or postpone the hearing.

(3) The hearing officer may reopen the hearing for the receipt of additional evidence at any time before mailing notice of the decision.

(4) The hearing officer shall give the representative and the other party to the hearing reasonable notice of any change in the time or place for the hearing, or of an adjournment or reopening of the hearing.

(d) *Parties.* The representative against whom charges have been made is a party to the hearing. The Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs also is a party to the hearing.

(e) *Subpoenas.* (1) The representative or the other party to the hearing may request the hearing officer to issue a subpoena for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to any matter being considered at the hearing. The hearing officer may, on his or her own initiative, issue subpoenas for the same purposes when the action is reasonably necessary for the full presentation of the facts.

(2) The representative or the other party who wants a subpoena issued shall file a written request with the hearing officer. This must be done at least 5 days before the date set for the hearing. The request must name the documents to be produced, and describe the address or location in enough detail to permit the witnesses or documents to be found.

(3) The representative or the other party who wants a subpoena issued shall state in the request for a subpoena the material facts that he or she expects to establish by the witness or document, and why the facts could not be established by the use of other evidence which could be obtained without use of a subpoena.

(4) We will pay the cost of the issuance and the fees and mileage of any witness subpoenaed, as provided in section 205(d) of the Act.

(f) *Conduct of the hearing.* (1) The hearing officer shall make the hearing open to the representative, to the other party, and to any persons the hearing officer or the parties consider necessary or proper. The hearing officer shall inquire fully into the matters being considered, hear the testimony of witnesses, and accept any documents that are material.

(2) If the representative did not file an answer to the charges, he or she has no right to present evidence at the hearing. The hearing officer may make or recommend a decision on the basis of the record, or permit the representative to present a statement about the sufficiency of the evidence or the validity of the proceedings upon which the suspension or disqualification, if it occurred, would be based.

(3) If the representative did not file an answer to the charges, and if the hearing officer believes that there is material evidence available that was not presented at the hearing, the hearing officer may at any time before mailing notice of the hearing decisions reopen the hearing to accept the additional evidence.

(4) The hearing officer has the right to decide the order in which the evidence and the allegations will be presented and the conduct of the hearing.

(g) *Evidence.* The hearing officer may accept evidence at the hearing, even though it is not admissible under the rules of evidence that apply to Federal court procedure.

(h) *Witnesses.* Witnesses who testify at the hearing shall do so under oath or affirmation. Either the representative or a person representing him or her may question the witnesses. The other party and that party's representative must also be allowed to question the witnesses. The hearing officer may also ask questions as considered necessary, and shall rule upon any objection made by either party about whether any question is proper.

(i) *Oral and written summation.* (1) The hearing officer shall give the representative and the other party a reasonable time to present oral summation and to file briefs or other written statements about proposed findings of fact and conclusions of law if the parties request it.

(2) The party that files briefs or other written statements shall provide enough copies so that they may be made available to any other party to the hearing who requests a copy.

(j) *Record of hearing.* In all cases, the hearing officer shall have a complete record of the proceedings at the hearing made.

(k) *Representation.* The representative, as the person charged, may appear in person and may be represented by an attorney or other representative.

(l) *Failure to appear.* If the representative or the other party to the hearing fails to appear after being notified of the time and place, the

hearing officer may hold the hearing anyway so that the party present may offer evidence to sustain or rebut the charges. The hearing officer shall give the party who failed to appear an opportunity to show good cause for failure to appear. If the party fails to show good cause, he or she is considered to have waived the right to be present at the hearing. If the party shows good cause, the hearing officer may hold a supplemental hearing.

(m) *Dismissal of charges.* The hearing officer may dismiss the charges in the event of the death of the representative.

(n) *Cost of transcript.* If the representative or the other party to a hearing requests a copy of the transcript of the hearing, the hearing officer will have it prepared and sent to the party upon payment of the cost, unless the payment is waived for good cause.

§ 404.1770 Decision by hearing officer.

(a) *General.* (1) After the close of the hearing, the hearing officer shall issue a decision or certify the case to the Appeals Council. The decision must be in writing, will contain findings of fact and conclusions of law, and be based upon the evidence of record. (2) If the hearing officer finds that the charges against the representative have been sustained, he or she shall either—

(i) Suspend the representative for a specified period of not less than 1 year, nor more than 5 years, from the date of the decision; or

(ii) Disqualify the representative from acting as a representative in dealings with us until he or she may be reinstated under § 404.1799.

(3) The hearing officer shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs. The notice will inform the parties of the right to request the Appeals Council to review the decision.

(b) *Effect of hearing officer's decision.* (1) The hearing officer's decision is final and binding unless reversed or modified by the Appeals Council upon review.

(2) If the final decision is that a person is disqualified from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us until authorized to do so under the provisions of § 404.1799.

(3) If the final decision is that a person is suspended for a specified period of time from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us during the period of suspension unless authorized to do so under the provisions of § 404.1799.

§ 404.1775 Requesting review of the hearing officer's decision.

(a) *General.* After the hearing officer issues a decision, either the representative or the other party to the hearing may ask the Appeals Council to review the decision.

(b) *Time and place of filing request for review.* The party requesting review shall file the request for review in writing with the Appeals Council within 30 days from the date the hearing officer mailed the notice. The party requesting review shall certify that a copy of the request for review and of any documents that are submitted have been mailed to the opposing party.

§ 404.1780 Appeals Council's review of hearing officer's decision.

(a) Upon request, the Appeals Council shall give the parties a reasonable time to file briefs or other written statements as to fact and law, and to appear before the Appeals Council to present oral argument.

(b) If a party files a brief or other written statement with the Appeals Council, he or she shall send a copy to the opposing party and certify that the copy has been sent.

§ 404.1785 Evidence permitted on review.

(a) *General.* Generally, the Appeals Council will not consider evidence in addition to that introduced at the hearing. However, if the Appeals Council believes that the evidence offered is material to an issue it is considering, the evidence will be considered.

(b) *Individual charged filed an answer.* (1) When the Appeals Council believes that additional material evidence is available, and the representative has filed an answer to the charges, the Appeals Council shall require that the evidence be obtained. The Appeals Council may name an administrative law judge or a member of the Appeals Council to receive the evidence.

(2) Before additional evidence is admitted into the record, the Appeals Council shall mail a notice to the parties, telling them that evidence about certain issues will be obtained, unless the notice is waived. The Appeals Council shall give each party a reasonable opportunity to comment on the evidence and to present other evidence that is material to an issue it is considering.

(c) *Individual charged did not file an answer.* If the representative did not file an answer to the charges, the Appeals Council will not permit the introduction of evidence that was not considered at the hearing.

§ 404.1790 Appeals Council's decision.

(a) The Appeals Council shall base its decision upon the evidence in the hearing record and any other evidence it may permit on review. The Appeals Council shall either—

(1) Affirm, reverse, or modify the hearing officer's decision; or

(2) Return a case to the hearing officer when the Appeals Council considers it appropriate.

(b) The Appeals Council, in changing a hearing officer's decision to suspend a representative for a specified period, shall in no event reduce the period of suspension to less than 1 year. In modifying a hearing officer's decision to disqualify a representative, the Appeals Council shall in no event impose a period of suspension of less than 1 year.

(c) If the Appeals Council affirms or changes a hearing officer's decision, the period of suspension or the disqualification is effective from the date of the Appeals Council's decision.

(d) If the hearing officer did not impose a period of suspension or a disqualification, and the Appeals Council decides to impose one or the other, the suspension or disqualification is effective from the date of the Appeals Council's decision.

(e) The Appeals Council shall make its decision in writing and shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs.

§ 404.1795 When the Appeals Council will dismiss a request for review.

The Appeals Council may dismiss a request for the review of any proceeding to suspend or disqualify a representative in any of the following circumstances:

(a) *Upon request of party.* The Appeals Council may dismiss a request for review upon written request of the party or parties who filed the request if there is no other party who objects to the dismissal.

(b) *Death of party.* The Appeals Council may dismiss a request for review in the event of the death of the representative.

(c) *Request for review not timely filed.* The Appeals Council will dismiss a request for review if a party failed to file a request for review within the 30-day time period and the Appeals Council does not extend the time for good cause.

§ 404.1797 Reinstatement after suspension—period of suspension expired.

We shall automatically allow a person to serve again as a representative in dealings with us at the end of any suspension.

§ 404.1799 Reinstatement after suspension or disqualification—period of suspension not expired.

(a) After more than one year has passed, a person who has been suspended or disqualified, may ask the Appeals Council for permission to serve as a representative again.

(b) The suspended or disqualified person shall submit any evidence he or she wishes to have considered along with the request to be allowed to serve as a representative again.

(c) The Appeals Council shall notify the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs of the receipt of the request and give that person 30 days in which to present a written report of any experiences with the suspended or disqualified person since that person was suspended or disqualified. The Appeals Council shall make available to the suspended or disqualified person a copy of the report.

(d) The Appeals Council shall not grant the request unless it is reasonably satisfied that the person will in the future act according to the provisions of section 206(a) of the Act, and to our rules and regulations.

(e) The Appeals Council shall mail a notice of its decision on the request to the suspended or disqualified person. It shall also mail a copy to the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs.

(f) If the Appeals Council decides not to grant the request, it shall not consider another request before the end of 1 year from the date of the notice of the previous denial.

3. A new Subpart S is added to Part 404 to read as follows:

Subpart S—Payment Procedures

Sec.

Authority: Secs. 205, 207 and 1102 of the Social Security Act; 53 Stat. 1368, 49 Stat. 624, 49 Stat. 647; (42 U.S.C. 405, 407 and 1302).

Subpart S—Payment Procedures

§ 404.1800 Introduction.

After we have made a determination or decision that you are entitled to benefits under title II of the Act, we begin paying those benefits to you as soon as possible. This subpart explains—

(a) What we must do so that your benefits begin promptly;

(b) When and how you may request that payment of benefits be expedited;

(c) When we may cause your benefits to be withheld;

(d) Our obligation not to assign or transfer your benefits to someone; and

(e) When we will use one check to pay benefits to two or more persons in a family.

§ 404.1805 Paying benefits.

(a) As soon as possible after we have made a determination or decision that you are entitled to benefits, we certify to the Secretary of the Treasury, who is the Managing Trustee of the Trust Funds,—

(1) Your name and address, or the name and address of the person to be paid if someone receives your benefits on your behalf as a representative payee;

(2) The amount of the payment or payments to be made from the appropriate Trust Fund; and

(3) The time at which the payment or payments should be made.

(b) Under certain circumstances when you have had railroad employment, we will certify the information to the Railroad Retirement Board.

§ 404.1810 Expediting benefit payments.

(a) *General.* We have established special procedures to expedite the payment of benefits in certain initial and subsequent claims. This section tells how you may request an expedited payment and when we will be able to hasten your payments by means of this process.

(b) *Applicability of section.* (1) This section applies to monthly benefits payable under title II of the Act, except as indicated in paragraph (b)(2) of this section; and to those cases where we certify information to the Railroad Retirement Board.

(2) This section does not apply—

(i) If an initial determination has been made and a request for a reconsideration, a hearing, a review by the Appeals Council, or review by a Federal court is pending on any issue of entitlement to or payment of a benefit;

(ii) To any benefit for which a check has been cashed; or

(iii) To any benefit based on an alleged disability.

(c) *Request for payment.* (1) You shall submit to us a written request for payment of benefits in accordance with paragraph (c)(2) or (c)(3) of this section. Paragraph (c)(2) of this section applies if you were receiving payments regularly and you then fail to receive payment for one or more months. Paragraph (c)(3) of this section applies if we have not made a determination about your entitlement to benefits, or if we have suspended or withheld payment due, for example, to excess earnings or recovery of an overpayment.

(2) If you received a regular monthly benefit in the month before the month in which a payment was allegedly due, you may make a written request for payment any time 30 days after the 15th day of the month in which the payment was allegedly due. If you request is made before the end of the 30-day period, we will consider it to have been made at the end of the period.

(3)(i) If you did not receive a regular monthly benefit in the month before the month in which a payment was allegedly due, you may make a written request for payment any time 90 days after the later of—

(A) The date on which the benefit is alleged to have been due; or

(B) The date on which you furnished us the last information we requested from you.

(ii) If your request is made before the end of the 90-day period we will consider it to have been made at the end of the period.

(d) *Certification for payment.* If we find that benefits are due, we shall certify the benefits for payment in sufficient time to permit the payment to be made within 15 days after the request for expedited payment is made, or considered to have been made, as provided in paragraph (c) of this section.

(e) *Preliminary certification for payment.* If we determine that there is evidence, although additional evidence may be required for a final decision, that a monthly benefit due to you in a particular month was not paid, we may make preliminary certification of payment even though the 30-day or 90-day periods described in paragraph (c) of this section have not elapsed.

§ 404.1815 Withholding certification or payments.

(a) *When certification may be withheld.* After a determination or decision, we may withhold certification to the Managing Trustee, or, if we have already made certification, we may notify the Managing Trustee to withhold payments. We may do this if a question about the validity of the payment or payments to be made under the

determination or decision arises as the result of one of the following events:

(1) A reconsideration (whether at the request of a claimant or on our own motion), hearing, or review is being conducted, or a civil action has been filed in a Federal district court concerning the determination or decision.

(2) An application or request is pending concerning the payment of benefits or a lump sum to another person, and the application or request is inconsistent, in whole or in part, with the payment or payments under the determination or decision.

(b) *When certification will not be withheld.* We will not withhold certification or payment as explained in paragraph (a) of this section unless evidence is submitted with the request or application that is sufficient to raise a reasonable question about the validity of the payment or payments under the determination or decision. We will not withhold certification of any amount of the payment or payments not in question. Your acceptance of any payment or payments will not affect your right to reconsideration, hearing, or review about any additional payment or payments you may claim.

§ 404.1820 Transfer or assignment of payments.

(a) *General.* We shall not certify payment to—

(1) Any person designated as your assignee or transferee; or

(2) Any person claiming payment because of an execution, levy, attachment, garnishment, or other legal process, or because of any bankruptcy or insolvency proceeding against or affecting you.

(b) *Enforcement of a child support or alimony obligation.* If you have a legal obligation to provide child support or make alimony payments and legal process is issued to enforce this obligation, the provisions of paragraph (a) of this section do not apply.

§ 404.1825 Joint payments to a family.

(a) *Two or more beneficiaries in same family.* If an amount is payable under title II of the Act for any month to two or more persons who are members of the same family, we may certify any two or more of the individuals for joint payment of the total benefits payable to them for the month.

(b) *Joint payee dies before cashing a check.* (1) If a check has been issued for joint payment to an individual and spouse residing in the same household, and one of the joint payees dies before the check has been cashed, we may authorize the surviving payee to cash the check. We make the authorization by placing on the face of the check a stamped legend signed by an official of the Social Security Administration or the Treasury Disbursing Office redesignating the survivor as the payee of the check.

(2) If the uncashed check represents benefits for a month after the month of death, we will not authorize the surviving payee to cash the check unless the proceeds of the check are necessary to meet the ordinary and necessary living expenses of the surviving payee.

(c) *Adjustment or recovery of overpayment.* If a check representing payment of benefits to an individual and spouse residing in the same household is cashed by the surviving payee under the authorization in paragraph (b) of this section, and the amount of the check exceeds the amount to which the surviving payee is entitled, we shall make appropriate adjustment or recovery of the excess amount.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

4. Subpart N of Part 416 is revised to read as follows:

Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

Introduction, Definitions, and Initial Determinations.

Reconsideration

Expedited Appeals Process

Hearings

Hearing Procedures

Appeals Council Review

Authority: Secs. 1102, 1631(c), and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478 (42 U.S.C. 1302, 1383, and 1383b).

Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

Introduction, Definitions, and Initial Determinations

§ 416.1400 Introduction.

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your rights under title XVI of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review after you have taken all the necessary administrative steps. The administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

(1) *Initial determination.* This is a determination we make about your eligibility or your continuing eligibility for benefits or about any other matter, as discussed in § 416.1402, that gives you a right to further review.

(2) *Reconsideration.* If you are dissatisfied with an initial determination, you may ask us to reconsider it. Generally, you must request a reconsideration before you may request a hearing.

(3) *Hearing.* If you are dissatisfied with the reconsideration determination, you may request a hearing before an administrative law judge.

(4) *Appeals Council review.* If you are dissatisfied with the decision of the administrative law judge, you may request that the Appeals Council review the decision.

(5) *Federal court review.* When you have completed the steps of the administrative review process listed in paragraphs (a)(1) through (a)(4) of this section, we will have made our final decision. If you are dissatisfied with our final decision, you may request judicial review by filing an action in a Federal district court.

(6) *Expedited appeals process.* At some time after your initial determination has been reviewed, if you have no dispute with our findings of fact and our application and interpretation of the controlling laws, but you believe that a part of the law is unconstitutional, you may use the expedited appeals process. This process permits you to go directly to a Federal district court so that the constitutional issue may be resolved.

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, nonadversary manner. In each step of the review process, you may present any information you feel is helpful to your case. We will consider it and all the information in our records. You may present the information yourself or have someone represent you, including an attorney. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review, unless you can show us that there was good cause for your failure to make a timely request for review.

§ 416.1401 Definitions.

As used in this subpart:

"Date you receive notice" means 5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period.

"Decision" means the decision made by an administrative law judge or the Appeals Council.

"Determination" means the initial determination or the reconsidered determination.

"Remand" means to return a case for further review.

"Vacate" means to set aside a previous action.

"Waive" means to give up a right knowingly and voluntarily.

"We," "us," or "our" refers to the Social Security Administration.

"You" or "your" refers to any person or the eligible spouse of any person claiming or receiving supplemental security income benefits.

§ 416.1402 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. Initial determinations regarding supplemental security income benefits include, but are not limited to, determinations about—

(a) Your eligibility for, or the amount of, your supplemental security income benefits;

(b) Suspension, reduction, or termination of your supplemental security income benefits;

(c) Whether an overpayment of benefits must be repaid to us;

(d) Whether payments will be made, on your behalf, to a representative payee, unless you are under age 18, legally incompetent, or determined to be a drug addict or alcoholic;

(e) Who will act as your payee if we determine that representative payment will be made;

(f) Imposing penalties for failing to report important information; and

(g) Your drug addiction or alcoholism.

§ 416.1403 Administrative actions that are not initial determinations.

(a) Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by this subpart and they are not subject to judicial review. These actions include, but are not limited to, an action about—

(1) Presumptive disability or presumptive blindness;

(2) Your eligibility for, or the amount of, emergency cash advances;

(3) Denial of a request to be made a representative payee;

(4) Denial of a request to use the expedited appeals process;

(5) Denial of a request to reopen a determination or a decision;

(6) The fee that may be charged or received by a person who has represented you in connection with a proceeding before us;

(7) Disqualifying or suspending a person from acting as your representative in a proceeding before us (See § 416.1545); and

(8) Denying your request to extend the time period for requesting review of a determination or a decision.

(b) We send some notices of actions that are not initial determinations:

(1) If you receive an emergency cash advance, presumptive disability or presumptive blindness payments, we shall send you a notice explaining the nature and the conditions of the payments.

(2) If you receive presumptive disability or presumptive blindness payments, we shall send you a notice when these payments are exhausted.

§ 416.1404 Notice of the initial determination.

(a) We shall mail a written notice of the initial determination to you at your

last known address. Generally, we will not send a notice if your benefits are stopped because of your death, or if the initial determination is a redetermination that your eligibility for benefits and the amount of your benefits have not changed.

(b) The written notice that we send will tell you—

(1) What our initial determination is;

(2) The reasons for our determination; and

(3) What rights you have to a reconsideration or hearing on the determination.

(c) If our initial determination is that we must suspend, reduce or terminate your benefits, the notice will also tell you that you have a right to a reconsideration or hearing before the determination takes effect (see § 416.1336).

§ 416.1405 Effect of an initial determination.

An initial determination is binding unless you request a reconsideration or a hearing, as appropriate, within the stated time period, or we revise the initial determination.

Reconsideration

§ 416.1407 Reconsideration—general.

Reconsideration is the first step in the administrative review process that we provide if you are dissatisfied with the initial determination. However, if the initial determination is that your blindness or disability has ceased due to medical reasons, your first step is to request a hearing right after the initial determination. If you are dissatisfied with our reconsidered determination, you may request a hearing.

§ 416.1408 Parties to a reconsideration.

(a) *Who may request a reconsideration.* If you are dissatisfied with the initial determination, you may request that we reconsider it. In addition, a person who shows in writing that his or her rights may be adversely affected by the initial determination may request a reconsideration.

(b) *Who are parties to a reconsideration.* After a request for the reconsideration, you and any person who shows in writing that his or her rights are adversely affected by the initial determination will be parties to the reconsideration.

§ 416.1409 How to request reconsideration.

(a) We shall reconsider an initial determination if you or any other party to the reconsideration files a written request at one of our offices within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in paragraph (b) of this section).

(b) *Extension of time to request a reconsideration.* If you want a reconsideration of the initial determination but do not request one in time, you may ask us for more time to request a reconsideration. Your request for an extension of time must be in writing and it must give the reasons why the request for reconsideration was not filed within the stated time period. If you show us that you had good cause for missing the deadline, we will extend the time period. To determine whether good cause exists, we use the standards explained in § 416.1411.

§ 416.1411 Good cause for missing the deadline to request review.

(a) In determining whether you have shown that you have good cause for missing a deadline to request review we consider—

(1) What circumstances kept you from making the request on time;

(2) Whether our action misled you; and

(3) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions.

(b) Examples of circumstances where good cause may exist include, but are not limited to, the following situations:

(1) You were seriously ill and were prevented from contacting us in person, in writing, or through a friend, relative, or other person.

(2) There was a death or serious illness in your immediate family.

(3) Important records were destroyed or damaged by fire or other accidental cause.

(4) You were trying very hard to find necessary information to support your claim but did not find the information within the stated time periods.

(5) You asked us for additional information explaining our action within the time limit, and within 60 days of receiving the explanation you requested reconsideration or a hearing, or within 30 days of receiving the explanation you requested Appeals Council review or filed a civil suit.

(6) We gave you incorrect or incomplete information about when and how to request administrative review or to file a civil suit.

(7) You did not receive notice of the initial determination or decision.

(8) You sent the request to another Government agency in good faith within the time limit and the request did not reach us until after the time period had expired.

(9) Unusual or unavoidable circumstances exist which show that you could not have known of the need to file timely, or which prevented you from filing timely.

§ 416.1413 Reconsideration procedures.

If you request reconsideration, we will give you a chance to present your case. How you can present your case depends upon the issue involved and whether you are asking us to reconsider an initial determination on an application or an initial determination on a suspension, reduction or termination of benefits. The methods of reconsideration include the following:

(a) *Case review.* We will give you and the other parties to the reconsideration an opportunity to review the evidence in our files and then to present oral and written evidence to us. We will then make a decision based on all of this evidence. The official who reviews the case will make the reconsidered determination.

(b) *Informal conference.* In addition to following the procedures of a case review, an informal conference allows you and the other parties to the reconsideration an opportunity to present witnesses. A summary record of this proceeding will become part of the case record. The official who conducts the informal conference will make the reconsidered determination.

(c) *Formal conference.* In addition to following the procedures of an informal conference, a formal conference allows you and the other parties to a reconsideration an opportunity to request us to subpoena adverse witnesses and relevant documents and to cross-examine adverse witnesses. A summary record of this proceeding will become a part of the case record. The official who conducts the formal conference will make the reconsidered determination.

§ 416.1414 Reconsiderations of initial determinations on applications.

The method of reconsideration we will use when you appeal an initial determination on your application for benefits depends on the issue involved in your case.

(a) *Nonmedical issues.* If you challenge our finding on a nonmedical issue, we shall offer you a case review or an informal conference, and will reach our reconsidered determination on the basis of the review you select.

(b) *Medical issues.* If you challenge our finding on a medical issue (even if you received payments because we presumed you were blind or disabled), we shall reach our reconsidered

determination on the basis of a case review.

§ 416.1415 Reconsideration procedures for post-eligibility claims.

If you are eligible for supplemental security income benefits and we notify you that we are going to suspend, reduce or terminate your benefits, you can appeal our determination within 60 days of the date you receive our notice. The 60-day period may be extended if you have good cause for an extension of time under the conditions stated in § 416.1411(b). If you appeal a suspension, reduction, or termination of benefits, the method of reconsideration we will use depends on the issue in your case. If the issue in your case is that you are no longer blind or disabled for medical reasons, you will receive a hearing. If any other issue is involved, you have the choice of a case review, informal conference or formal conference. (See § 416.1336 which discusses your right to have your payments continued at the same level until we issue a determination or decision on your appeal.)

§ 416.1416 Arrangement for conferences.

(a) As soon as we receive a request for a formal or informal conference, we shall set the time, date and place for the conference.

(b) We shall send you and any other parties to the reconsideration a written notice about the conference (either by mailing it to your last known address or by personally serving you with it) at least 10 days before the conference. However, we may hold the conference sooner if we all agree. We will not send written notice of the time, date, and place of the conference if you waive your right to receive it.

(c) We shall schedule the conference within 15 days after you request it, but, at our discretion or at your request, we will delay the conference if we think the delay will ensure that the conference is conducted efficiently and properly.

(d) We shall hold the conference at one of our offices, by telephone or in person, whichever you prefer. We will hold the conference elsewhere in person if you show circumstances that make this arrangement reasonably necessary.

§ 416.1417 Notice of another person's request for reconsideration.

If any other person files a request for reconsideration of the initial determination in your case, we shall notify you at your last known address before we reconsider the initial determination. We shall also give you an opportunity to present any evidence you think helpful to the reconsidered determination.

§ 416.1418 Reconsidered determination.

After you or another person requests a reconsideration, we shall review the evidence considered in making the initial determination and any other evidence we receive. We shall make our determination based on this evidence. The person who makes the reconsidered determination shall have had no prior involvement with the initial determination.

§ 416.1420 Effect of a reconsidered determination.

The reconsidered determination is binding unless—

(a) You or any other party to the reconsideration requests a hearing within the stated time period and a decision is made;

(b) The expedited appeals process is used; or

(c) The reconsidered determination is revised.

§ 416.1421 Notice of a reconsidered determination.

We shall mail a written notice of the reconsidered determination to the parties at their last known address. We shall state the specific reasons for the determination and tell you and any other parties of the right to a hearing. If it is appropriate, we will also tell you and any other parties how to use the expedited appeals process.

Expedited Appeals Process

§ 416.1423 Expedited appeals process—general.

By using the expedited appeals process you may go directly to a Federal district court without first completing the administrative review process that is generally required before the court will hear your case.

§ 416.1424 When the expedited appeals process may be used.

You may use the expedited appeals process if all of the following requirements are met:

(a) We have made an initial and a reconsidered determination; an administrative law judge has made a hearing decision; or Appeals Council review has been requested, but a final decision has not been issued.

(b) You are a party to the reconsidered determination or the hearing decision.

(c) You have submitted a written request for the expedited appeals process.

(d) You have claimed, and we agree, that the only factor preventing a favorable determination or decision is a provision in the law that you believe is unconstitutional.

(e) If you are not the only party, all parties to the determination or decision agree to request the expedited appeals process.

§ 416.1425 How to request expedited appeals process.

(a) *Time of filing request.* You may request the expedited appeals process—

(1) Within 60 days after the date you receive notice of the reconsidered determination (or within the extended time period if we extend the time as provided in paragraph (c) of this section);

(2) At any time after you have filed a timely request for a hearing but before you receive notice of the administrative law judge's decision;

(3) Within 60 days after the date you receive a notice of the administrative law judge's decision or dismissal (or within the extended time period if we extend the time as provided in paragraph (c) of this section); or

(4) At any time after you have filed a timely request for Appeals Council review, but before you receive notice of the Appeals Council's action.

(b) *Place of filing request.* You may file a written request for the expedited appeals process at one of our offices.

(c) *Extension of time to request expedited appeals process.*

If you want to use the expedited appeals process but do not request it within the stated time period, you may ask for more time to submit your request. Your request for an extension of time must be in writing and it must give the reasons why the request for the expedited appeals process was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 416.1411.

§ 416.1426 Agreement in expedited appeals process.

If you meet all the requirements necessary for the use of the expedited appeals process, our authorized representative shall prepare an agreement. The agreement must be signed by you, by every other party to the determination or decision, and by our authorized representative. The agreement must provide that—

(a) The facts in your claim are not in dispute;

(b) The sole issue in dispute is whether a provision of the Act that applies to your case is unconstitutional;

(c) Except for your belief that a provision of the Act is unconstitutional, you agree with our interpretation of the law;

(d) If the provision of the Act that you believe is unconstitutional were not applied to your case, your claim would be allowed; and

(e) Our determination or the decision is final for the purpose of seeking judicial review.

§ 416.1427 Effect of expedited appeals process agreement.

After an expedited appeals process agreement is signed, you will not need to complete the remaining steps of the administrative review process. Instead, you may file an action in a Federal district court within 60 days after the date the agreement is signed by our authorized representative.

§ 416.1428 Expedited appeals process request that does not result in agreement.

If you do not meet all of the requirements necessary to use the expedited appeals process, we shall tell you that your request to use this process is denied and that your request will be considered as a request for a hearing, or Appeals Council review, whichever is appropriate.

Hearings

§ 416.1429 Hearing—general.

If you are dissatisfied with one of the determinations or decisions listed in § 416.1430 you may request a hearing. The Associate Commissioner for Hearings and Appeals, or his or her delegate, shall appoint an administrative law judge to conduct the hearing. If circumstances warrant, the Associate Commissioner, or his or her delegate, may assign your case to another administrative law judge. At the hearing you may appear in person, submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she shall issue a decision based on the hearing record. If you waive your right to appear at a hearing, the administrative law judge will make a decision based on the evidence that is in the file and any new evidence that may have been submitted for consideration.

§ 416.1430 Availability of a hearing.

(a) You may request a hearing if we have made—

(1) A reconsidered determination;

(2) An initial determination or revised initial determination that your blindness or disability has ceased due to medical reasons;

(3) A reconsideration of a revised determination of an initial or reconsidered determination that involves a suspension, reduction or termination of benefits;

(4) A revised initial determination or revised reconsidered determination that does not involve a suspension, reduction or termination, of benefits; or

(5) A revised decision based on evidence not included in the record on which the prior decision was based.

(b) We will hold a hearing only if you or another party to the hearing file a written request for a hearing.

§ 416.1432 Parties to a hearing.

(a) *Who may request a hearing.* You may request a hearing if a hearing is available under § 416.1430. In addition, a person who shows in writing that his or her rights may be adversely affected by the decision may request a hearing.

(b) *Who are parties to a hearing.* After a request for a hearing is made, you, the other parties to the initial, reconsidered, or revised determination, and any other person who shows in writing that his or her rights may be adversely affected by the hearing, are parties to the hearing. In addition, any other person may be made a party to the hearing if his or her rights may be adversely affected by the decision, and the administrative law judge notifies the person to appear at the hearing or to present evidence supporting his or her interest.

§ 416.1433 How to request a hearing.

(a) *Written request.* You may request a hearing by filing a written request. You should include in your request—

(1) Your name and social security number;

(2) The name and social security number of your spouse, if any;

(3) The reasons you disagree with the previous determination or decision;

(4) A statement of additional evidence to be submitted and the date you will submit it; and

(5) The name and address of any designated representative.

(b) *When and where to file.* The request must be filed at one of our offices within 60 days after the date you receive notice of the previous determination or decision (or within the extended time period if we extend the time as provided in paragraph (c) of this section).

(c) *Extension of time to request a hearing.* If you have a right to a hearing but do not request one in time, you may ask for more time to make your request. The request for an extension of time must be in writing and it must give the reasons why the request for a hearing was not filed within the stated time period. You may file your request for an extension of time at one of our offices. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 416.1411.

§ 416.1435 Submitting evidence before a hearing.

If possible, the evidence or a summary of evidence you wish to have considered at the hearing should be submitted to the administrative law judge with the request for hearing or within 10 days after filing the request. Each party shall make every effort to be sure that all material evidence is received by the administrative law judge or is available at the time and place set for the hearing.

§ 416.1436 Time and place for a hearing.

(a) The administrative law judge sets the time and place for the hearing. He or she may change the time and place, if it is necessary. After sending the parties reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies the parties of a hearing decision. Hearings are held in the 50 States, the District of Columbia and the Northern Mariana Islands.

(b) If you object to the time or place of the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objection and the time or place you want the hearing to be held. The administrative law judge may change the time or place for the hearing if you show good cause for the change.

§ 416.1438 Notice of a hearing.

After the administrative law judge sets the time and place for the hearing, notice of the hearing will be mailed to the parties at their last known address or given by personal service, unless you have indicated in writing that you do not wish to receive this notice. The notice will be mailed or served at least 10 days before the hearing. It will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings.

§ 416.1439 Objections to the issues.

If you object to the issues to be decided upon at the hearing, you must notify the administrative law judge in

writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objections. The administrative law judge shall make a decision on your objections either in writing or at the hearing.

§ 416.1440 Disqualification of the administrative law judge.

An administrative law judge shall not conduct a hearing if he or she is prejudiced or partial with respect to any party or has any interest in the matter pending for decision. If you object to the administrative law judge who will conduct the hearing, you must notify the administrative law judge at your earliest opportunity. The administrative law judge shall consider your objections and shall decide whether to proceed with the hearing or withdraw. If he or she withdraws, the Associate Commissioner for Hearings and Appeals, or his or her delegate, will appoint another administrative law judge to conduct the hearing. If the administrative law judge does not withdraw, you may, after the hearing, present your objections to the Appeals Council as reasons why the hearing decision should be revised or a new hearing held before another administrative law judge.

§ 416.1441 Prehearing case review.

(a) *General.* After a hearing is requested but before it is held, we may, for the purposes of a prehearing case review, forward the case to the component of our office (including a State agency) that issued the determination being reviewed. That component will decide whether the determination may be revised. A revised determination may be wholly or partially favorable to you. A prehearing case review will not delay the scheduling of a hearing unless you agree to continue the review and delay the hearing. If the prehearing case review is not completed before the date of the hearing, the case will be sent to the administrative law judge unless a favorable revised determination is in process or you and the other parties to the hearing agree in writing to delay the hearing until the review is completed.

(b) *When a prehearing case review may be conducted.* We may conduct a prehearing case review if—

(1) Additional evidence is submitted;

(2) There is an indication that additional evidence is available;

(3) There is a change in the law or regulation; or

(4) There is an error in the file or some other indication that the prior determination may be revised.

(c) *Notice of a prehearing revised determination.* If we revise the determination in a prehearing case review, we shall mail written notice of the revised determination to all parties at their last known address. We will state the basis for the revised determination and advise all parties of their right to request a hearing on the revised determination within 60 days after the date of receiving this notice.

(d) *Revised determination wholly favorable.* If the revised determination is wholly favorable to you, we shall tell you in the notice that the administrative law judge will dismiss the hearing request unless a party requests that the hearing proceed. A request to continue must be made in writing within 30 days after the date the notice of the revised determination is mailed.

(e) *Revised determination partially favorable.* If the revised determination is partially favorable to you, we shall tell you in the notice what was not favorable. We shall also tell you that the hearing you requested will be held unless you, the parties to the revised determination and the parties to the hearing tell us that all parties agree to dismiss the hearing request.

Hearing Procedures

§ 416.1444 Hearing procedures—general.

A hearing is open to the parties and to other persons the administrative law judge considers necessary and proper. At the hearing the administrative law judge looks fully into the issues, questions you and the other witnesses, and accepts as evidence any documents that are material to the issues. The administrative law judge may stop the hearing temporarily and continue it at a later date if he or she believes that there is material evidence missing at the hearing. The administrative law judge may also reopen the hearing at any time before he or she mails a notice of the decision in order to receive new and material evidence. The administrative law judge may decide when the evidence will be presented and when the issues will be discussed.

§ 416.1446 Issues before the administrative law judge.

(a) *General.* The issues before the administrative law judge include all the issues brought out in the initial, reconsidered or revised determination that were not decided entirely in your favor. However, if evidence presented before or during the hearing causes the administrative law judge to question a fully favorable determination, he or she will notify you and will consider it an issue at the hearing.

(b) *New issues.*—(1) *General.* The administrative law judge may consider a new issue at the hearing if he or she notifies you and all the parties about the new issue any time after receiving the hearing request and before mailing notice of the hearing decision. The administrative law judge or any party may raise a new issue; an issue may be raised even though it arose after the request for a hearing and even though it has not been considered in an initial or reconsidered determination. However, it may not be raised if it involves a claim that is within the jurisdiction of a State agency under a Federal-State agreement concerning the determination of disability.

(2) *Notice of a new issue.* The administrative law judge shall notify you and any other party if he or she will consider any new issue. Notice of the time and place of the hearing on any new issues will be given in the manner described in § 416.1438, unless you have indicated in writing that you do not wish to receive the notice.

§ 416.1448 Deciding a case without an oral hearing.

(a) *Decision wholly favorable.* If the evidence in the hearing record supports a finding in favor of you and all the parties on every issue, the administrative law judge may issue a hearing decision without holding an oral hearing. However, the notice of the decision will inform you that you have the right to an oral hearing and that you have a right to examine the evidence on which the decision is based.

(b) *Parties do not wish to appear.* (1) The administrative law judge may decide a case on the record and not conduct an oral hearing if—

(i) You and all the parties indicate in writing that you do not wish to appear before the administrative law judge at an oral hearing; or

(ii) You live outside the United States and you do not inform us that you want to appear and there are no other parties who wish to appear.

(2) When an oral hearing is not held, the administrative law judge shall make a record of the material evidence. The record will include the applications, written statements, certificates, reports, affidavits, and other documents which were used in making the determination under review and any additional evidence you or any other party to the hearing present in writing. The decision of the administrative law judge must be based on this record.

(c) *Case remanded for a revised determination.* (1) The administrative law judge may remand a case to the appropriate component of our office for

a revised determination if there is reason to believe that the revised determination would be fully favorable to you. This could happen if the administrative law judge receives new and material evidence or if there is a change in the law that permits the favorable determination.

(2) Unless you request the remand the administrative law judge shall notify you that your case has been remanded and tell you that if you object, you must notify him or her of your objections within 10 days of the date the case is remanded or we will assume that you agree to the remand. If you object to the remand, the administrative law judge will consider the objection and rule on it in writing.

§ 416.1449 Presenting written statements and oral arguments.

You or a person you designate to act as your representative may appear before the administrative law judge to state your case, to present a written summary of your case, or to enter written statements about the facts and law material to your case into the record. A copy of your written statements should be filed for each party.

§ 416.1450 Presenting evidence at a hearing.

(a) *The right to appear and present evidence.* Any party to a hearing has the right to appear before the administrative law judge, either personally or by means of a designated representative, to present evidence and to state his or her position.

(b) *Waiver of the right to appear.* You may send the administrative law judge a waiver or a written statement indicating that you do not wish to appear at the hearing. You may withdraw this waiver any time before a notice of the hearing decision is mailed to you. Even if all of the parties waive their right to appear at a hearing, the administrative law judge may notify them of a time and a place for an oral hearing, if he or she believes that a personal appearance and testimony by you or any other party is necessary to decide the case.

(c) *What evidence is admissible at a hearing.* The administrative law judge may receive evidence at the hearing even though the evidence would not be admissible in court under the rules of evidence used by the court.

(d) *Subpoenas.* (1) When it is reasonably necessary for the full presentation of a case, an administrative law judge or a member of the Appeals Council may, on his or her own initiative or at the request of a party, issue subpoenas for the appearance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to an issue at the hearing.

(2) Parties to a hearing who wish to subpoena documents or witnesses must file a written request for the issuance of a subpoena with the administrative law judge or at one of our offices at least 5 days before the hearing date. The written request must give the names of the witnesses or documents to be produced; describe the address or location of the witnesses or documents with sufficient detail to find them; state the important facts that the witness or document is expected to prove; and indicate why these facts could not be proven without issuing a subpoena.

(3) We will pay the cost of issuing the subpoena.

(4) We will pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

(e) *Witnesses at a hearing.* Witnesses may appear at a hearing. They shall testify under oath or affirmation, unless the administrative law judge finds an important reason to excuse them from taking an oath or affirmation. The administrative law judge may ask the witnesses any questions material to the issues and shall allow the parties or their designated representatives to do so.

(f) *Collateral estoppel—issues previously decided.* An issue at your hearing may be a fact that has already been decided in one of our previous determinations or decisions in a claim involving the same parties, but arising under a different title of the Act or under the Federal Coal Mine Health and Safety Act. If this happens, the administrative law judge will not consider the issue again, but will accept the factual finding made in the previous determination or decision unless there are reasons to believe that it was wrong.

§ 416.1451 When a record of a hearing is made.

The administrative law judge shall make a complete record of the hearing proceedings. The record will be prepared as a typed copy of the proceedings if—

(a) The case is sent to the Appeals Council without a decision or with a recommended decision by the administrative law judge;

(b) You seek judicial review of your case by filing an action in a Federal district court within the stated time period, unless we request the court to remand the case; or

(c) An administrative law judge or the Appeals Council asks for a written record of the proceedings.

§ 416.1452 Consolidated hearings.

(a) *General.* (1) A consolidated hearing may be held if—

(i) You have requested a hearing to decide your eligibility for supplemental security income benefits and you have also requested a hearing to decide your rights under another law we administer; and

(ii) One or more of the issues to be considered at the hearing you requested are the same issues that are involved in another claim you have pending before us.

(2) If the administrative law judge decides to hold the hearing on both claims, he or she decides both claims, even if we have not yet made an initial or reconsidered determination on the other claim.

(b) *Record, evidence, and decision.* There will be a single record at a consolidated hearing. This means that the evidence introduced in one case becomes evidence in the other(s). The administrative law judge may make either a separate or consolidated decision.

§ 416.1453 The administrative law judge's decision.

(a) *General.* The administrative law judge shall issue a written decision which gives the findings of fact and the reasons for the decision. The decision must be based on evidence offered at the hearing or otherwise included in the record. The administrative law judge shall mail a copy of the decision to all the parties at their last known address. The Appeals Council may also receive a copy of the decision.

(b) *Time for the administrative law judge's decision.* (1) The administrative law judge must issue the hearing decision no later than 90 days after the request for hearing is filed, unless—

(i) The matter to be decided is whether you are disabled; or

(ii) There is good cause for extending the time period because of unavoidable circumstances.

(2) Good cause for extending the time period may be found under the following circumstances:

(i) *Delay caused by you or by your representative's action.* The time period for decision in this instance may be extended by the total number of days of the delays. The delays include delays in submitting evidence, briefs, or other statements, postponements or adjournments made at your request, and any other delays caused by you or your representative.

(ii) *Other delays.* The time period for decision may be extended where delays occur through no fault of the Secretary. In this instance, the decision will be issued as soon as practicable.

(c) *Recommended decision.* Although an administrative law judge will usually make an initial decision, where appropriate he or she may send the case to the Appeals Council with a recommended decision. Also, if a Federal district court remands a case to the Appeals Council, and the Appeals Council remands the case to an administrative law judge, the case must be returned to the Appeals Council with a recommended decision. The administrative law judge shall mail a copy of the recommended decision to the parties at their last known address and and the recommended decision to the Appeals Council.

§ 416.1455 The effect of the administrative law judge's decision.

The decision of the administrative law judge is binding on all parties to the hearing unless—

(a) You or another party request a review of the decision by the Appeals Council within the stated time period, and the Appeals Council reviews your case;

(b) You or another party requests a review of the decision by the Appeals Council within the stated time period, the Appeals Council denies your request for review, and you seek judicial review of your case by filing an action in a Federal district court;

(c) The decision is revised by an administrative law judge or the Appeals Council under the procedures explained in § 416.1487;

(d) The expedited appeals process is used; or

(e) The decision is a recommended decision directed to the Appeals Council.

§ 416.1456 Removal of hearing request to the Appeals Council.

If you have requested a hearing and the request is pending before an administrative law judge, the Appeals Council may assume responsibility for holding a hearing by requesting that the administrative law judge send the hearing request to it. If the Appeals Council holds a hearing, it shall conduct the hearing according to the rules for hearings before an administrative law judge. Notice shall be mailed to all parties at their last known address telling them that the Appeals Council has assumed responsibility for the case.

§ 416.1457 Dismissal of a request for a hearing.

An administrative law judge may dismiss a request for a hearing under any of the following conditions:

(a) At any time before notice of the hearing decision is mailed, you or the party or parties that requested the hearing ask to withdraw the request. This request may be submitted in writing to the administrative law judge or made orally at the hearing.

(b) Neither you nor the person you designate to act as your representative appears at the time and place set for the hearing and—

(1) Before the time set for the hearing you did not give the administrative law judge a good reason why you or your representative could not appear; or

(2) Within 10 days after the administrative law judge mails you a notice asking why you did not appear, you do not give a good reason for the failure to appear.

(c) The administrative law judge decides that there is cause to dismiss a hearing request entirely or to refuse to consider any one or more of the issues because—

(1) The doctrine of *res judicata* applies in that we have made a previous determination or decision under this subpart about your rights on the same facts and on the same issue or issues, and this previous determination or decision has become final by either administrative or judicial action;

(2) The person requesting a hearing has no right to it under § 416.1430;

(3) You did not request a hearing within the stated time period and we have not extended the time for requesting a hearing under § 416.1433(c); or

(4) You die, there are no other parties, and we have no information to show that you may have an eligible spouse. However, dismissal of the hearing request will be vacated if, within 60 days after the date of the dismissal, another person claiming to be your eligible spouse submits a written request for a hearing on the claim and shows that he or she may be adversely affected by the determination that was to be reviewed at the hearing.

§ 416.1458 Notice of dismissal of a hearing request.

We shall mail a written notice of the dismissal of the hearing request to all parties at their last known address. The notice will state that there is a right to request that the Appeals Council vacate the dismissal action.

§ 416.1459 Effect of dismissal of a hearing request.

The dismissal of a request for a hearing is binding, unless it is vacated by an administrative law judge or the Appeals Council.

§ 416.1460 Vacating a dismissal of a hearing request.

An administrative law judge or the Appeals Council may vacate any dismissal of a hearing request if, within 60 days after the date you receive the dismissal notice, you request that the dismissal be vacated and show good cause why the hearing request should not have been dismissed. The Appeals Council itself may decide within 60 days after the notice of dismissal is mailed to vacate the dismissal. The Appeals Council shall advise you in writing of any action it takes.

§ 416.1461 Prehearing and posthearing conferences.

The administrative law judge may decide on his or her own, or at the request of any party to the hearing, to hold a prehearing or posthearing conference to facilitate the hearing or the hearing decision. The administrative law judge shall tell the parties of the time, place and purpose of the conference at least seven days before the conference date, unless the parties have indicated in writing that they do not wish to receive a written notice of the conference. At the conference, the administrative law judge may consider matters in addition to those stated in the notice, if the parties consent in writing. A record of the conference will be made. The administrative law judge shall issue an order stating all agreements and actions resulting from the conference. If the parties do not object, the agreements and actions become part of the hearing record and are binding on all parties.

Appeals Council Review

§ 416.1467 Appeals Council review—general.

If you or any other party is dissatisfied with the hearing decision or with the dismissal of a hearing request, you may request that the Appeals Council review that action. The Appeals Council may deny or dismiss the request for review, or it may grant the request and either issue a decision or remand the case to an administrative law judge. The Appeals Council shall notify the parties at their last known address of the action it takes.

§ 416.1468 How to request Appeals Council review.

(a) *Time and place to request Appeals Council review.* You may request

Appeals Council review by filing a written request. Any documents or other evidence you wish to have considered by the Appeals Council should be submitted with your request for review. You may file your request at one of our offices within 60 days after the date you receive notice of the hearing decision or dismissal (or within the extended time period if we extend the time as provided in paragraph (b) of this section).

(b) *Extension of time to request review.* You or any party to a hearing decision may ask that the time for filing a request for the review be extended. The request for an extension of time must be in writing. It must be filed with the Appeals Council, and it must give the reasons why the request for review was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 416.1411.

§ 416.1469 Appeals Council initiates review.

Anytime within 60 days after the date of a hearing decision or dismissal, the Appeals Council itself may decide to review the action that was taken. If the Appeals Council does review the hearing decision or dismissal notice of the action will be mailed to all parties at their last known address.

§ 416.1470 Cases the Appeals Council will review.

(a) The Appeals Council will review a case if—

(1) There appears to be an abuse of discretion by the administrative law judge;

(2) There is an error of law;

(3) The action, findings or conclusions of the administrative law judge are not supported by substantial evidence; or

(4) There is a broad policy or procedural issue that may affect the general public interest.

(b) If new and material evidence is submitted with the request for review, the Appeals Council shall evaluate the entire record. It will then review the case if it finds that the administrative law judge's action, findings, or conclusion is contrary to the weight of the evidence currently in the record.

§ 416.1471 Dismissal by Appeals Council.

The Appeals Council will dismiss your request for review if you did not file your request within the stated period of time and the time for filing has not been extended. The Appeals Council may also dismiss any proceedings before it if—

(a) You and any other party to the proceedings files a written request for dismissal; or

(b) You or any other party to the proceedings dies and the record clearly shows that there is no person who may be your eligible spouse who wishes to continue the action.

§ 416.1472 Effect of dismissal of request for Appeals Council review.

The dismissal of a request for Appeals Council review is binding and not subject to further review.

§ 416.1473 Notice of Appeals Council review.

When the Appeals Council decides to review a case, it shall mail a notice to all parties at their last known address stating the reasons for the review and the issues to be considered.

§ 416.1474 Obtaining evidence from Appeals Council.

You may request and receive copies or a statement of the documents or other written evidence upon which the hearing decision or dismissal was based and a copy or summary of the transcript of oral evidence. However, you will be asked to pay the costs of providing these copies unless there is a good reason why you should not pay.

§ 416.1475 Filing briefs with the Appeals Council.

Upon request, the Appeals Council shall give you and all other parties a reasonable opportunity to file briefs or other written statements about the facts and law relevant to the case. A copy of each brief or statement should be filed for each party.

§ 416.1476 Procedures before Appeals Council on review.

(a) *Limitation of issues.* The Appeals Council may limit the issues it considers if it notifies you and the other parties of the issues it will review.

(b) *Evidence.* The Appeals Council will consider the evidence in the hearing record and any additional evidence it believes is material to an issue being considered. If the Appeals Council decides that more evidence is needed, it may remand the case to an administrative law judge to receive evidence and issue a new decision. However, if the Appeals Council decides that it can obtain the information more quickly, it may do so unless it will adversely affect your rights.

(c) *Oral argument.* You may request to appear before the Appeals Council to present oral argument. The Appeals Council will grant your request if it decides that your case raises an important question of law or policy or that oral argument would help to reach a proper decision. If your request to appear is granted, the Appeals Council will tell you the time and place of the oral argument at least 10 days before the scheduled date.

§ 416.1477 Case remanded by Appeals Council.

(a) *When the Appeals Council may remand a case.* The Appeals Council may remand a case to an administrative law judge so that he or she may hold a hearing and issue a decision or a recommended decision. The Appeals Council may also remand a case in which additional evidence is needed or additional action by the administrative law judge is required.

(b) *Action by administrative law judge on remand.* The administrative law judge shall take any action that is ordered by the Appeals Council and may take any additional action that is not inconsistent with the Appeals Council's remand order.

(c) *Notice when case is returned with a recommended decision.* When the administrative law judge sends a case to the Appeals Council with a recommended decision, a notice is mailed to the parties at their last known address. The notice tells them that the case has been sent to the Appeals Council, explains the rules for filing briefs or other written statements with the Appeals Council, and includes a copy of the recommended decision.

(d) *Filing briefs with and obtaining evidence from the Appeals Council.* (1) You may file briefs or other written statements about the facts and law relevant to your case with the Appeals Council within 20 days of the date that the recommended decision is mailed to you. Any party may ask the Appeals Council for additional time to file briefs or statements. The Appeals Council will extend this period, as appropriate, if you show that you had good cause for missing the deadline.

(2) All other rules for filing briefs with and obtaining evidence from the Appeals Council follow the procedures explained in this subpart.

(e) *Procedures before the Appeals Council.* (1) The Appeals Council after receiving a recommended decision will conduct its proceedings and issue its decision according to the procedures explained in this subpart.

(2) If the Appeals Council believes that more evidence is required, it may again remand the case to an administrative law judge for further inquiry into the issues, rehearing, receipt of evidence, and another decision or recommended decision. However, if the Appeals Council decides that it can get

the additional evidence more quickly, it will take appropriate action.

§ 416.1479 Decision of Appeals Council.

After it has reviewed all the evidence in the hearing record and any additional evidence received, the Appeals Council will make a decision or remand the case to an administrative law judge. The Appeals Council may affirm, modify or reverse the hearing decision or it may adopt, modify or reject a recommended decision. A copy of the Appeals Council's decision will be mailed to the parties at their last known address.

§ 416.1481 Effect of Appeals Council's decision or denial of review.

The Appeals Council may deny a party's request for review or it may decide to review a case and make a decision. The Appeals Council's decision, or the decision of the administrative law judge if the request for review is denied, is binding unless you or another party file an action in Federal district court, or the decision is revised. You may file an action in a Federal district court within 60 days after the date you receive notice of the Appeals Council's action.

§ 416.1482 Extension of time to file action in Federal district court.

Any party to the Appeals Council's decision or denial of review, or to an expedited appeals process agreement, may request that the time for filing an action in a Federal district court be extended. The request must be in writing and it must give the reasons why the action was not filed within the stated time period. The request must be filed with the Appeals Council, or if it concerns an expedited appeals process agreement, with one of our offices. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 416.1411.

§ 416.1483 Case remanded by Federal court.

When a Federal court remands a case to the Appeals Council for further consideration, the Appeals Council may make a decision, or it may remand the case to an administrative law judge with instructions to take action and return the case to the Appeals Council with a recommended decision. If the case is remanded by the Appeals Council, the procedures explained in § 416.1477 will be followed.

Reopening and Revising Determinations and Decisions

§ 416.1487 Reopening and revising determinations and decisions.

(a) *General.* Generally, if you are dissatisfied with a determination or decision made in the administrative review process, but do not request further review within the stated time period, you lose your right to further review. However, a determination or a decision made in your case may be reopened and revised. After we reopen your case, we may revise the earlier determination or decision.

(b) *Procedure for reopening and revision.* You may ask that a determination or a decision to which you were a party be revised. The conditions under which we will reopen a previous determination or decision are explained in § 416.1488.

§ 416.1488 Conditions for reopening.

A determination, revised determination, decision, or revised decision may be reopened—

(a) Within 12 months of the date of the notice of the initial determination, for any reason;

(b) Within two years of the date of the notice of the initial determination if we find good cause, as defined in § 416.1489, to reopen the case; or

(c) At any time if it was obtained by fraud or similar fault.

§ 416.1489 Good cause for reopening.

(a) We will find that there is good cause to reopen a determination or decision if—

(1) New and material evidence is furnished;

(2) A clerical error was made; or

(3) The evidence that was considered in making the determination or decision clearly shows on its face that an error was made.

(b) We will not find good cause to reopen your case if the only reason for reopening is a change of legal interpretation or administrative ruling upon which the determination or decision was made.

§ 416.1492 Notice of revised determination or decision.

(a) When a determination or decision is revised, notice of the revision will be mailed to the parties at their last known address. The notice will state the basis for the revised determination or decision and the effect of the revision. The notice will also inform the parties of the right to further review.

(b) If a determination is revised and the revised determination requires that your benefits be suspended, reduced, or terminated, the notice will inform you of your right to continued payment (see § 416.1336 and the exceptions set out in § 416.1337) and of your right to reconsideration. However, if our revised determination is that your disability or blindness has ended due to medical reasons, the notice will inform you of your right to continued payment and of your right to a hearing.

(c) If a determination is revised and the revised determination does not require that your benefits be suspended, reduced, or terminated, the notice will inform you of your right to a hearing.

(d) If an administrative law judge or the Appeals Council proposes to revise a decision, and the revision would be based on evidence not included in the record on which the prior decision was based, you and any other parties to the decision will be notified of the proposed action and of your right to request that a hearing be held before any further action is taken. If a revised decision is issued by an administrative law judge, you or any other party may request that it be reviewed by the Appeals Council, or the Appeals Council may review the decision on its own initiative.

(e) If an administrative law judge or the Appeals Council proposes to revise a decision, and the revision would be based only on evidence included in the record on which the prior decision was based, you and any other parties to the decision will be notified of the proposed action. If a revised decision is issued by an administrative law judge, you and any other party may request that it be reviewed by the Appeals Council, or the Appeals Council may review the decision on its own initiative.

(f) An administrative law judge may, in connection with a valid request for a hearing, propose to reopen an issue other than the issue on which the request for a hearing was based. The administrative law judge will follow the time limits for reopenings set out in § 416.1488. The administrative law judge shall mail to the parties at their last known address a notice of the reopening.

§ 416.1493 Effect of revised determination or decision.

A revised determination or decision is binding unless—

(a) You or a party to the revised determination file a written request for a reconsideration or a hearing;

(b) You or another party to the revised decision file, as appropriate, a request for review by the Appeals Council or a hearing;

(c) The Appeals Council reviews the revised decision; or

(d) The revised determination or decision is further revised.

§ 416.1494 Time and place to request further review or a hearing on revised determination or decision.

You or another party to the revised determination or decision may request, as appropriate, further review or a hearing on the revision by filing a request in writing at one of our offices within 60 days after the date you receive notice of the revision. Further review or a hearing will be held on the revision according to the rules of this subpart.

5. Subpart O of Part 416 is revised to read as follows:

Subpart O—Representation of Parties

Sec.

Authority: Secs. 1102 and 1631(d)(2) of the Social Security Act; 49 Stat. 647, 86 Stat. 1475; 42 U.S.C. 1302 and 1383.

Subpart O—Representation of Parties

§ 416.1500 Introduction.

You may appoint someone to represent you in any of your dealings with us. This subpart explains, among other things—

(a) Who may be your representative and what his or her qualifications must be;

(b) How you appoint a representative;

(c) The payment of fees to a representative;

(d) Our rules that representatives must follow; and

(e) What happens to a representative who breaks the rules.

§ 416.1503 Definitions.

As used in this subpart:

"Representative" means an attorney who meets all of the requirements of § 416.1505(a), or a person other than an attorney who meets all of the requirements of § 416.1505(b), and whom you appoint to represent you in dealings with us.

"We," "our," or "us" refers to the Social Security Administration.

"You" or "your" refers to any person or the eligible spouse of any person claiming or receiving supplemental security income benefits.

§ 416.1505 Who may be your representative.

(a) *Attorney.* You may appoint as your representative in dealings with us any attorney in good standing who—

(1) Has the right to practice law before a court of a State, Territory, District, or island possession of the United States, or before the Supreme Court or a lower Federal court of the United States;

(2) Is not disqualified or suspended from acting as a representative in dealings with us; and

(3) Is not prohibited by any law from acting as a representative.

(b) *Person other than attorney.* You may appoint any person who is not an attorney to be your representative in dealings with us if he or she—

(1) Is generally known to have a good character and reputation;

(2) Is capable of giving valuable help to you in connection with your claim;

(3) Is not disqualified or suspended from acting as a representative in dealing with us; and

(4) Is not prohibited by any law from acting as a representative.

§ 416.1507 Appointing a representative.

We will recognize a person as your representative if the following things are done:

(a) You sign a written notice stating that you want the person to be your representative in dealings with us.

(b) That person signs the notice, agreeing to be your representative, if the person is not an attorney. An attorney does not have to sign a notice of appointment.

(c) The notice is filed at one of our offices if you have initially filed a claim or requested reconsideration; with an administrative law judge if you have requested a hearing; or with the Appeals Council if you have requested a review of the administrative law judge's decision.

§ 416.1510 Authority of a representative.

(a) *What a representative may do.* Your representative may, on your behalf—

(1) Obtain information about your claim to the same extent that you are able to do;

(2) Submit evidence;

(3) Make statements about facts and law; and

(4) Make any request or give any notice about the proceedings before us.

(b) *What a representative may not do.* A representative may not sign an application on behalf of a claimant for rights or benefits under title XVI of the Act unless authorized to do so under § 416.315.

§ 416.1515 Notice or request to a representative.

(a) We shall send your representative—

(1) Notice and a copy of any administrative action, determination, or decision; and

(2) Requests for information or evidence.

(b) A notice or request sent to your representative will have the same force and effect as if it had been sent to you.

§ 416.1520 Fee for a representative's services.

(a) *General.* A representative may charge and receive a fee for his or her services as a representative only as provided in paragraph (b) of this section.

(b) *Charging and receiving a fee.* (1) The representative must file a written request with us before he or she may charge or receive a fee for his or her services.

(2) We decide the amount of the fee, if any, a representative may charge or receive.

(3) A representative shall not charge or receive any fee unless we have approved it, and he or she shall not charge or receive any fee that is more than the amount we approve. This rule applies whether the fee is charged to or received from you or from someone else.

(c) *Notice of fee determination.* We shall mail to both you and your representative at your last known address a written notice of what we decide about the fee. We shall state in the notice—

(1) The amount of the fee that is authorized;

(2) How we made that decision;

(3) That we are not responsible for paying the fee; and

(4) That within 30 days of the date of the notice, either you or your representative may request us to review the fee determination.

(d) *Review of fee determination*—(1) *Request filed on time.* We will review the decision we made about a fee if either you or your representative files a written request for the review at one of our offices within 30 days after the date of the notice of the fee determination. Either you or your representative, whoever requests the review, shall mail a copy of the request to the other person. An authorized official of the Social Security Administration who did not take part in the fee determination being questioned will review the determination. This determination is not subject to further review. The official shall mail a written notice of the decision made on review both to you and to your representative at your last known address.

(2) *Request not filed on time.* (i) If you or your representative requests a review of the decision we made about a fee, but does so more than 30 days after the date of the notice of the fee determination, whoever makes the request shall state in writing why it was not filed within the 30-day period. We will review the determination if we decide that there was good cause for not filing the request on time.

(ii) Some examples of good cause follow:

(A) Either you or your representative was seriously ill and the illness prevented you or your representative from contacting us in person or in writing.

(B) There was a death or serious illness in your family or in the family of your representative.

(C) Material records were destroyed by fire or other accidental cause.

(D) We gave you or your representative incorrect or incomplete information about the right to request review.

(E) You or your representative did not timely receive notice of the fee determination.

(F) You or your representative sent the request to another government agency in good faith within the 30-day period, and the request did not reach us until after the period had ended.

(3) *Payment of fees.* We assume no responsibility for the payment of a fee based on a representative's services before the Social Security Administration under title XVI.

§ 416.1525 Request for approval of a fee.

(a) *Filing a request.* In order for your representative to obtain approval of a fee for services he or she performed in dealings with us, he or she shall file a written request with one of our offices. This should be done after the proceedings in which he or she was a representative are completed. The request must contain—

(1) The dates the representative's services began and ended;

(2) A list of the services he or she gave and the amount of time he or she spent on each type of service;

(3) The amount of the fee he or she wants to charge for the services;

(4) The amount of fee the representative wants to request or charge for his or her services in the same matter before any State or Federal court;

(5) The amount of and a list of any expenses the representative incurred for which he or she has been paid or expects to be paid;

(6) A description of the special qualifications which enabled the representative, if he or she is not an attorney, to give valuable help to you in connection with your claim; and

(7) A statement showing that the representative sent a copy of the request for approval of a fee to you.

(b) *Evaluating a request for approval of a fee.* (1) When we evaluate a representative's request for approval of a fee, we consider the purpose of the supplemental security income program, which is to assure a minimum level of income for the beneficiaries of the program, together with—

(i) The extent and type of services the representative performed;

(ii) The complexity of the case;

(iii) The level of skill and competence required of the representative in giving the services;

(iv) The amount of time the representative spent on the case;

(v) The results the representative achieved;

(vi) The level of review to which the claim was taken and the level of the review at which the representative became your representative; and

(vii) The amount of fee the representative requests for his or her services, including any amount authorized or requested before, but not including the amount of any expenses he or she incurred.

(2) Although we consider the amount of benefits, if any, that are payable, we do not base the amount of fee we authorize on the amount of the benefit alone, but on a consideration of all the factors listed in this section. The benefits payable in any claim are determined by specific provisions of law and are unrelated to the efforts of the representative. We may authorize a fee even if no benefits are payable.

§ 416.1528 Proceedings before a State or Federal court.

We shall not consider any service the representative gave you in any proceeding before a State or federal court to be services as a representative in dealings with us. However, if the representative has also given service to you in the same connection in any dealings with us, he or she must specify what, if any, portion of the fee he or she wants to charge is for services performed in dealings with us. If the representative charges any fee for those services, he or she must file the request and furnish all of the information required by § 416.1525.

§ 416.1535 Services in a proceeding under title XVI of the Act.

Services provided a claimant in any dealing with us under title XVI of the Act consist of services performed for that claimant in connection with any claim he or she may have before the Secretary of Health and Human Services under title XVI of the Act. These services include any in connection with any asserted right a claimant may have calling for an initial or reconsidered determination by us, and a decision or action by an administrative law judge or by the Appeals Council.

§ 416.1540 Rules governing representatives.

No attorney or other person representing a claimant shall—

(a) With intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten by word, circular, letter, or advertisement, either oral or written, any claimant or prospective claimant or beneficiary regarding benefits, or other initial or continued right under the Act;

(b) Knowingly charge or collect, or make any agreement to charge or collect, directly or indirectly, any fee in any amount in excess of that allowed by us or by the court;

(c) Knowingly make or participate in the making or presentation of any false statement, representation, or claim about any material fact affecting the rights of any person under title XVI of the Act; or

(d) Divulge, except as may be authorized by regulations prescribed by us, any information we furnish or disclose, about the claim or prospective claim of another person.

§ 416.1545 What happens to a representative who breaks the rules.

Our Deputy Commissioner (Operations) or the Director (or Deputy Director) of our Office of Insurance Programs may begin proceedings to suspend or disqualify a person from

acting as a representative in dealings with us if it appears that he or she—

(a) Has violated any of the rules in § 416.1540;

(b) Has been convicted of a violation under section 1631(d)(2) of the Act; or

(c) Has otherwise refused to comply with our rules and regulations on representing claimants in dealings with us.

§ 416.1550 Notice of charges against a representative.

(a) The Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs will prepare a notice containing a statement of charges that constitutes the basis for the proceeding against the representative.

(b) We will send this notice to the representative either by certified or registered mail, to his or her last known address, or by personal delivery.

(c) We will advise the representative to file an answer, within 30 days from the date of the notice or from the date the notice was delivered personally, stating why he or she should not be suspended or disqualified from acting as a representative in dealings with us.

(d) The Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs may extend the 30-day period for good cause.

(e) The representative must—

(1) Answer the notice in writing under oath (or affirmation); and

(2) File the answer with the Social Security Administration, Office of Insurance Programs 6401 Security Boulevard, Baltimore, Maryland 21235, within the 30-day time period.

(f) If the representative does not file an answer within the 30-day time period, he or she does not have the right to present evidence, except as may be provided in § 416.1565(f).

§ 416.1555 Withdrawing charges against a representative.

We may withdraw charges against a representative. We will do this if the representative files an answer, or we obtain evidence, that satisfies us that there is reasonable doubt about whether he or she should be suspended or disqualified from acting as a representative in dealings with us. If we withdraw the charges, we shall notify the representative by mail at his or her last known address.

§ 416.1560 Referring charges to the Office of Hearings and Appeals.

If we do not take action to withdraw the charges against the representative before 15 days have passed after the time within which he or she has filed an answer, we shall send the record of the evidence in support of the charges to the Office of Hearings and Appeals. We will ask that they hold a hearing and make a decision on the charges.

§ 416.1565 Hearing on charges.

(a) *Hearing officer.* (1) When the Office of Hearings and Appeals receives the notice of charges against the representative, the record of evidence, and the request for a hearing, the Associate Commissioner for Hearings and Appeals or his or her delegate shall name an administrative law judge, designated to act as a hearing officer, to hold a hearing on the charges.

(2) No hearing officer shall hold a hearing in a case in which he or she is prejudiced or partial about any party, or has any interest in the matter.

(3) If the representative or any party to the hearing objects to the hearing officer who has been named to hold the hearing, we must be notified at the earliest opportunity. The hearing officer shall consider the objection(s) and either proceed with the hearing or withdraw from it.

(4) If the hearing officer withdraws from the hearing, another one will be named.

(5) If the hearing officer does not withdraw, the representative or any other person objecting may, after the hearing, present his or her objections to the Appeals Council explaining why he or she believes the hearing officer's decision should be revised or a new hearing held by another administrative law judge designated to act as a hearing officer.

(b) *Time and place of hearing.* The hearing officer shall mail the representative a written notice of the hearing, at his or her last known address, at least 20 days before the date set for the hearing. The hearing officer shall send a copy of the notice to the Deputy Commissioner (Operations) or to the Director (or Deputy Director) of the Office of Insurance Programs.

(c) *Change of time and place for hearing.* (1) The hearing officer may change the time and place for the hearing. This may be done either on his or her own initiative, or at the request of the representative or the other party to the hearing.

(2) The hearing officer may adjourn or postpone the hearing.

(3) The hearing officer may reopen the hearing for the receipt of additional evidence at any time before mailing notice of the decision.

(4) The hearing officer shall give the representative and the other party to the hearing reasonable notice of any change in the time or place for the hearing, or of an adjournment or reopening of the hearing.

(d) *Parties.* The representative against whom charges have been made is a party to the hearing. The Deputy Commissioner (Operations), or the Director (or Deputy Director) of the Office of Insurance Programs also is a party to the hearing.

(e) *Subpoenas.* (1) The representative or the other party to the hearing may request the hearing officer to issue a subpoena for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to any matter being considered at the hearing. The hearing officer may, on his or her own initiative, issue subpoenas for the same purposes when the action is reasonably necessary for the full presentation of the facts.

(2) The representative or the other party who wants a subpoena issued shall file a written request with the hearing officer. This must be done at least 5 days before the date set for the hearing. The request must name the documents to be produced, and describe the address or location in enough detail to permit the witnesses or documents to be found.

(3) The representative or the other party who wants a subpoena issued shall state in the request for a subpoena the material facts that he or she expects to establish by the witness or document, and why the facts could not be established by the use of other evidence which could be obtained without use of a subpoena.

(4) We will pay the cost of the issuance and the fees and mileage of any witness subpoenaed, as provided in section 205(d) of the Act.

(f) *Conduct of the hearing.* (1) The hearing officer shall make the hearing open to the representative, to the other party, and to any persons the hearing officer or the parties consider necessary or proper. The hearing officer shall inquire fully into the matters being considered, hear the testimony of witnesses, and accept any documents that are material.

(2) If the representative did not file an answer to the charges, he or she has no right to present evidence at the hearing. The hearing officer may make or recommend a decision on the basis of the record, or permit the representative to present a statement about the sufficiency of the evidence or the validity of the proceedings upon which the suspension or disqualification, if it occurred, would be based.

(3) If the representative did not file an answer to the charges, and if the hearing

officer believes that there is material evidence available that was not presented at the hearing, the hearing officer may at any time before mailing notice of the hearing decision reopen the hearing to accept the additional evidence.

(4) The hearing officer has the right to decide the order in which the evidence and the allegations will be presented and the conduct of the hearing.

(g) *Evidence.* The hearing officer may accept evidence at the hearing, even though it is not admissible under the rules of evidence that apply to Federal court procedure.

(h) *Witnesses.* Witnesses who testify at the hearing shall do so under oath or affirmation. Either the representative or a person representing him or her may question the witnesses. The other party and that party's representative must also be allowed to question the witnesses. The hearing officer may also ask questions as considered necessary, and shall rule upon any objection made by either party about whether any question is proper.

(i) *Oral and written summation.* (1) The hearing officer shall give the representative and the other party a reasonable time to present oral summation and to file briefs or other written statements about proposed findings of fact and conclusions of law if the parties request it.

(2) The party that files briefs or other written statements shall provide enough copies so that they may be made available to any other party to the hearing who requests a copy.

(j) *Record of hearing.* In all cases, the hearing officer shall have a complete record of the proceedings at the hearing made.

(k) *Representation.* The representative, as the person charged, may appear in person and may be represented by an attorney or other representative.

(l) *Failure to appear.* If the representative or the other party to the hearing fails to appear after being notified of the time and place, the hearing officer may hold the hearing anyway so that the party present may offer evidence to sustain or rebut the charges. The hearing officer shall give the party who failed to appear an opportunity to show good cause for failure to appear. If the party fails to show good cause, he or she is considered to have waived the right to be present at the hearing. If the party shows good cause, the hearing officer may hold a supplemental hearing.

(m) *Dismissal of charges.* The hearing officer may dismiss the charges in the event of the death of the representative.

(n) *Cost of transcript.* If the representative or the other party to a hearing requests a copy of the transcript of the hearing, the hearing officer will have it prepared and sent to the party upon payment of the cost, unless the payment is waived for good cause.

§ 416.1570 Decision by hearing officer.

(a) *General.* (1) After the close of the hearing, the hearing officer shall issue a decision or certify the case to the Appeals Council. The decision must be in writing, will contain findings of fact and conclusions of law, and be based upon the evidence of record.

(2) If the hearing officer finds that the charges against the representative have been sustained, he or she shall either—

(i) Suspend the representative for a specified period of not less than 1 year, nor more than 5 years, from the date of the decision; or

(ii) Disqualify the representative from acting as a representative in dealings with us until he or she may be reinstated under § 416.1599.

(3) The hearing officer shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs. The notice will inform the parties of the right to request the Appeals Council to review the decision.

(b) *Effect of hearing officer's decision.* (1) The hearing officer's decision is final and binding unless reversed or modified by the Appeals Council upon review.

(2) If the final decision is that a person is disqualified from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us until authorized to do so under the provisions of § 416.1599.

(3) If the final decision is that a person is suspended for a specified period of time from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us during the period of suspension unless authorized to do so under the provisions of § 416.1599.

§ 416.1575 Requesting review of the hearing officer's decision.

(a) *General.* After the hearing officer issues a decision, either the representative or the other party to the hearing may ask the Appeals Council to review the decision.

(b) *Time and place of filing request for review.* The party requesting review shall file the request for review in writing with the Appeals Council within 30 days from the date the hearing officer mailed the notice. The party requesting review shall certify that a copy of the request for review and of any documents that are submitted have been mailed to the opposing party.

§ 416.1580 Appeals Council's review of hearing officer's decision.

(a) Upon request, the Appeals Council shall give the parties a reasonable time to file briefs or other written statements as to fact and law, and to appear before the Appeals Council to present oral argument.

(b) If a party files a brief or other written statement with the Appeals Council, he or she shall send a copy to the opposing party and certify that the copy has been sent.

§ 416.1585 Evidence permitted on review.

(a) *General.* Generally, the Appeals Council will not consider evidence in addition to that introduced at the hearing. However, if the Appeals Council believes that the evidence offered is material to an issue it is considering, the evidence will be considered.

(b) *Individual charged filed an answer.* (1) When the Appeals Council believes that additional material evidence is available, and the representative has filed an answer to the charges, the Appeals Council shall require that the evidence be obtained. The Appeals Council may name an administrative law judge or a member of the Appeals Council to receive the evidence.

(2) Before additional evidence is admitted into the record, the Appeals Council shall mail a notice to the parties telling them that evidence about certain issues will be obtained, unless the notice is waived. The Appeals Council shall give each party a reasonable opportunity to comment on the evidence and to present other evidence that is material to an issue it is considering.

(c) *Individual charged did not file an answer.* If the representative did not file an answer to the charges, the Appeals Council will not permit the introduction of evidence that was not considered at the hearing.

§ 416.1590 Appeals Council's decision.

(a) The Appeals Council shall base its decision upon the evidence in the hearing record and any other evidence it may permit on review. The Appeals Council shall either—

(1) Affirm, reverse, or modify the hearing officer's decision;

(2) Return a case to the hearing officer when the Appeals Council considers it appropriate.

(b) The Appeals Council, in changing a hearing officer's decision to suspend a representative for a specified period, shall in no event reduce the period of suspension to less than 1 year. In modifying a hearing officer's decision to disqualify a representative, the Appeals Council shall in no event impose a period of suspension of less than 1 year.

(c) If the Appeals Council affirms or changes a hearing officer's decision, the period of suspension or the disqualification is effective from the date of the Appeals Council's decision.

(d) If the hearing officer did not impose a period of suspension or a disqualification, and the Appeals Council decides to impose one or the other, the suspension or disqualification is effective from the date of the Appeals Council's decision.

(e) The Appeals Council shall make its decision in writing and shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs.

§ 416.1595 When the Appeals Council will dismiss a request for review.

The Appeals Council may dismiss a request for the review of any proceeding to suspend or disqualify a representative in any of the following circumstances:

(a) *Upon request of party.* The Appeals Council may dismiss a request for review upon written request of the party or parties who filed the request, if there is no other party who objects to the dismissal.

(b) *Death of party.* The Appeals Council may dismiss a request for review in the event of the death of the representative.

(c) *Request for review not timely filed.* The Appeals Council will dismiss a request for review if a party failed to file a request for review within the 30-day time period and the Appeals Council does not extend the time for good cause.

§ 416.1597 Reinstatement after suspension—period of suspension expired.

We shall automatically allow a person to serve again as a representative in dealings with us at the end of any suspension.

§ 416.1599 Reinstatement after suspension or disqualification—period of suspension not expired.

(a) After more than one year has passed, a person who has been suspended or disqualified may ask the Appeals Council for permission to serve as a representative again.

(b) The suspended or disqualified person shall submit any evidence he or she wishes to have considered along with the request to be allowed to serve as a representative again.

(c) The Appeals Council shall notify the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs of the receipt of the request and give that person 30 days in which to present a written report of any experiences with the suspended or disqualified person since that person was suspended or disqualified. The Appeals Council shall make available to the suspended or disqualified person a copy of the report.

(d) The Appeals Council shall not grant the request unless it is reasonably satisfied that the person will in the future act according to the provisions of section 1631(d)(2) of the Act, and to our regulations.

(e) The Appeals Council shall mail a notice of its decision on the request to the suspended or disqualified person. It shall also mail a copy to the Deputy Commissioner (Operations) or the Director (or Deputy Director) of the Office of Insurance Programs.

(f) If the Appeals Council decides not to grant the request it shall not consider another request before the end of 1 year from the date of the notice of the previous denial.

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Part IV

Department of Energy

Economic Regulatory Administration

Crude Oil Reseller Regulations; Interim Final Rule

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-48]

Crude Oil Reseller Regulations

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of energy (DOE) is amending the price regulations applicable to resales of crude oil (10 CFR Part 212, Subpart L) to establish a permissible average markup of twenty cents per barrel for crude oil resellers first doing business on or after December 1, 1977 ("post-November 1977 resellers"). The permissible average markup adopted today will apply to sales by post-November 1977 resellers on or after January 1, 1978 and prospectively until such time as the ERA may issue a further final rule in this rulemaking proceeding to establish uniform permissible average markups for all resellers, regardless of when they began crude oil reselling operations.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Office of Public Hearings Management), Economic Regulatory Administration, Room B-210, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3971.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461 (202) 653-4055.

Daniel J. Thomas (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7302, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3202.

William Funck or Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736 or 252-6739.

SUPPLEMENTARY INFORMATION:

I. Background

On December 23, 1977, we issued a final rule that amended the Mandatory Petroleum Price Regulations to provide, through the adoption of a Subpart L for 10 CFR Part 212, a new regulatory system applicable to the pricing of crude oil by resellers and refiners, effective January 1, 1978 (42 FR 64856, December 29, 1977). Prior to January 1, 1978, prices in crude oil resales were subject to the limitations of Subpart F of 10 CFR Part 212, which provides generally for the computation of a maximum lawful price in every sale of a covered product (now other than crude oil) by a reseller.

Subpart L permits a reseller to charge any price in a particular sale of crude oil so long as the reseller's average markup (over allowed costs) for all crude oil sales in a month does not exceed its permissible average markup and provided that the reseller does not unreasonably discriminate among purchasers. The Method to be used by a reseller in determining its permissible average markup for purposes of Subpart L depends on the time period during which the reseller first resold crude oil.

Under the regulations, the permissible average markup of a reseller which resold crude oil in May 1973 is defined as the reseller's total lawful revenues from sales of crude oil in the month of May 1973, less all of the reseller's allowed costs and expenses associated with sales of crude oil in that month, divided by the number of barrels sold in that month. A reseller which entered the crude oil reselling business after may 1973 but before December 1, 1977 is required to impute a permissible average markup is based on what the reseller's average markup on sales in November 1977 would have been if the prices charged by the reseller in all sales that month had been correctly determined (in accordance with the provisions of Subpart F) from prices which did not exceed those prices charged by the reseller's nearest comparable outlet on the day the reseller first offered crude oil for resale.

We announced in the preamble to Subpart L our intent to establish at a later time the permissible average markup for crude oil resellers first doing business on or after December 1, 1977. We provided in the regulations, however, that if in any month a post-November 1977 reseller's average markup should exceed the permissible average markup subsequently established by ERA the reseller would nevertheless be deemed to have complied with the price rule if the prices charged by the reseller for each grade of lower tier, upper tier, and stripper well and other exempt crude oil did not exceed the prices at which such crude oil was sold by the nearest comparable reseller in the month.

On October 25, 1979, we issued a notice of proposed rulemaking setting forth various proposed amendments to Subpart L (44 FR 62848, October 31, 1979). Certain of the proposed amendments would provide for extensive revisions to Subpart L in order to insure that in the future a reseller's permissible markup would be consistent with the permissible markups of other firms providing comparable services, regardless of the time period in which the reseller first began its crude oil reselling activities. Adoption of these proposals, which remain under consideration, would make the date of a crude oil reseller's entry into the marketplace irrelevant to future sales. However, the need remained to establish a permissible average markup for application to sales by post-November 1977 resellers between December 31, 1977 and the effective date of any revisions to Subpart L. Therefore, the October 1979 proposals included a proposed amendment to establish a permissible average markup of fifteen cents per barrel which would apply to all sales made by post-November 1977 resellers prior to the implementation of the proposals.

Our decision to propose a permissible average markup of fifteen cents per barrel for post-November 1977 resellers was based on our preliminary conclusion that such an average markup would be consistent with the average markups realized by most resellers in May 1973, a period generally recognized to have been a time of relative price stability in the petroleum industry. The delay until October 1979 in proposing a permissible average markup for post-November 1977 resellers was due primarily to the fact that sufficient data regarding the average markups of firms doing business in May 1973 was not available until late 1979.

Since the data upon which we based the proposed permissible average markup for post-November 1977 resellers was obtained through voluntary submissions by firms operating in May 1973, we requested that comments on the proposal be submitted under oath and provide, with as much specificity as possible, information and data regarding average markups (as currently defined in Subpart L) realized by crude oil resellers currently, in January 1978, in November 1977, and in May 1973. We also announced our intention to reconsider the proposed fifteen cents per barrel permissible average markup in view of data then being collected by means of the then recently adopted Form ERA-69.

Hearings on the October 1979 proposals were held in Houston, Texas on December 6, 1979 and in Washington,

D.C. on December 11 and 12, 1979. After considering the presentations at the hearings and other written submissions, we decided that the preparation of a regulatory analysis would be helpful in our consideration of the proposed amendments. Accordingly, we issued a notice announcing our intent to defer final rulemaking action until an analysis could be completed (44 FR 8025, February 6, 1980).

After completing a preliminary review of the data obtained by means of Form ERA–69 and the comments received in this proceeding, we have concluded that, even though the regulations indicate that post-November 1977 resellers, in order to insure compliance, should not set their prices in excess of the prices charged by established firms, in many instances these firms have realized average markups in excess of those obtained by firms doing business in May 1973. Therefore, we have determined that a specified permissible average markup for application to sales by these newer resellers since December 31, 1977 should be adopted at the earliest possible date. Since we have completed our analysis for purposes of determining the appropriate permissible average markup for post-November 1977 resellers, but are not yet in a position to adopt a rule applicable to all resellers, we are today adopting a limited amendment applicable only to post-November 1977 resellers. This amendment will remain in effect until such time as we may take further action to provide uniform markups for all resellers, regardless of when they began crude oil reselling activities.

II. Discussion of Form ERA–69 Data

As stated in the October 1979 notice of proposed rulemaking, we believe that any permissible average markup adopted for application to slates by post-November 1977 resellers on or after January 1, 1978 should be consistent with the average markups realized by crude oil resellers in May 1973. Accordingly, we have reviewed our proposed permissible average markup of fifteen cents per barrel in view of the information submitted on Form ERA–69 by firms doing business in May 1973. We concluded that it would be appropriate to limit our analysis to data concerning those firms in business in May 1973, since under both Subpart F and Subpart L crude oil resellers have been required to set their prices in accordance with regulations designed to insure that resellers' average markups are consistent with those realized by firms in May 1973.

Thirty-nine firms reported crude oil sales in May 1973. However, five of these firms reported neither gathering and transportation expenses nor any general and administrative expenses. We could not establish whether these five firms incurred such expenses and simply did not report them or included such expenses under another expense category. Furthermore, since we assume that all resellers performing a legitimate function must incur general and administrative expenses, we concluded that the data for these firms was incomplete and, therefore, that we could not reasonably ascertain the average markups of these firms. Accordingly, we omitted their data from the statistical universe. One firm reported an average markup in May 1973 of $3.95 per barrel. Data concerning this firm was also excluded since we determined, in view of the findings discussed below, that its reported average markup was not representative of resellers' average markups in May 1973.

Our analysis of the data submitted by the thirty-three remaining firms indicates that the median average markup of these firms in May 1973 was twelve to thirteen cents per barrel. Twenty-four of these firms (i.e., seventy-three percent of those resellers providing reliable data) reported average markups in May 1973 which were less than twenty cents per barrel. We also reviewed the data for these firms on a volume weighted basis. This analysis indicated that half of all barrels of crude oil resold by these resellers in May 1973 were sold by those resellers reporting average markups of less than twelve to thirteen cents per barrel. Eighty-five percent of all barrels of crude oil resold in May 1973 were sold by those resellers reporting average markups of less than sixteen cents per barrel. Finally, ninety-nine percent of all barrels of crude oil resold in May 1973 were sold by resellers reporting average markups of less than twenty cents per barrel.

Based on this analysis, we concluded that a permissible average markup of twenty cents per barrel for post-November 1977 resellers would be reasonable since it would be both fair and consistent with historical average markups and, thus, the permissible average markups of other resellers under Subpart L. This conclusion was reached after review of the relevant comments received in response to the October 1979 proposed rulemaking. A summary and discussion of those comments follows.

III. Discussion of Comments

Thirty oral presentations were made at the hearings held in Houston, Texas and Washington, D.C. In addition, approximately one hundred and fifty written comments were received. (However, there were fewer than one hundred and fifty different commenters, since several commenters made oral presentations at the hearings and also submitted written comments. In addition, some firms filed more than one written submission.) Twenty-eight commenters were crude oil resellers. While we could not determine from their comments the time period during which several of those resellers which commented began operations, we believe this group included at least five firms that were in the crude oil reselling business in May 1973, twelve resellers that began operations after May 1973 but prior to December 1977, and four firms that entered the market after November 1977. Three law firms and four economists and consulting groups retained by groups of resellers also commented.

The commenters also included six of the major integrated oil companies, twelve small refiners, an association representing small refiners, one large independent refiner, and one firm with plans to construct a small refinery. Independent producers were represented by an association representing a group of independent producers in California and twenty-eight independent producers commenting individually. Finally, comments were submitted by a non-profit public interest group and an association representing farm cooperatives.

Only eight commenters addressed the proposed permissible average markup of fifteen cents per barrel for crude oil resellers first doing business on or after December 1, 1977. Four of these firms identified themselves as post-November 1977 resellers. Two of these firms were resellers which began crude oil reselling activities prior to December 1977 but indicated that they have operated on the assumption that any permissible average markup adopted by the ERA would directly apply to them, since they had no sales in November 1977. Vigorous objections were raised by these six commenters that would be subject to or believed they would be subject to the proposed application of a permissible average markup of fifteen cents per barrel to sales by post-November 1977 resellers on or after January 1, 1978 and before the effective date of any rulemaking action to adopt a uniform permissible average markup for all resellers.

The six resellers opposing the proposal argued that they could not reasonably have been expected to have anticipated the proposed fifteen cents

per barrel average markup and that adoption of the proposal would retroactively compel many post-November 1977 resellers to operate unprofitably in violation of their Constitutional rights to due process. Some of these firms viewed the proposed fifteen cent average markup as a discriminatory tactic indicative of the DOE's prejudicial view toward new entrants into the crude oil marketplace. Other firms stated that they would find little benefit in the provisions of § 212.183(c) which provides that, following establishment of a permissible average markup for post-November 1977 resellers, a reseller will nevertheless be deemed to have been in compliance with the regulations if it can demonstrate that its prices in crude oil sales were not higher than those of its nearest comparable reseller. These firms argued that this "safe harbor" provided for post-November 1977 resellers is of little benefit, since transactions in the crude oil reselling market are private and, in any event, a crude oil reseller cannot be expected to disclose the details of its transactions to competitors. Some resellers claimed that even if they could ascertain the prices charged by other resellers, there is no guidance for determining their "nearest comparable reseller."

We do not believe that it was unreasonable to expect that a new entrant would be able to ascertain the prices charged by those firms operating around it and thereby insure its compliance by following the guidance provided in § 212.183(c). We have consistently emphasized that new resellers should set their prices at levels consistent with those of other resellers in order to assure compliance with the regulations. If any reseller truly found itself at a loss in ascertaining the lawful prices charged by other firms or in determining its nearest comparable reseller, it should have sought assistance by requesting an Interpretation from the Office of General Counsel or exception relief from the Office of Hearings and Appeals. Since January 1978, few if any post-November 1977 resellers have requested Interpretations or sought exception relief from the provisions of Subpart L, and even after the October 1979 proposals were issued only four post-November 1977 resellers commented concerning the alleged difficulty of complying with the regulations.

We also believe it is fair and reasonable to establish twenty cents as the permissible average markup for new resellers that did not price in accordance with the prices charged by their nearest comparable resellers. New resellers have known since December 1977 that the ERA would establish a permissible average markup based upon legal average markups of established crude oil resellers. The average markup that has been established—twenty-cents per barrel—is expansive as indicated by the data discussed above which shows that seventy-three percent of the firms reporting reliable data had average markups in May 1973 which were less than twenty cents per barrel, and that ninety-nine percent of all barrels of crude oil resold in May 1973 reflected an average markup of less than twenty cents per barrel. In view of these considerations, we believe the rule adopted today appropriately, if somewhat more generously, codifies the rule that post-November 1977 resellers have been on notice to expect.

Furthermore, we believe a twenty cent average markup is fair and reasonable for any post-November 1977 reseller that looked to a firm that entered the market after May 1973 in establishing its prices, since average markups for firms beginning crude oil reselling operations after May 1973 but prior to the adoption of Subpart L should be consistent with the data for May 1973 firms. This conclusion follows in view of the requirement under Subpart L that such a reseller's permissible average markup be determined on the basis of its lawful revenues under Subpart F, which required that a new entrant look to its nearest comparable outlet in setting its initial prices and thereby determine its allowable profit margin in all subsequent sales.

In view of the above, we believe that a post-November 1977 firm that made a good faith attempt to establish its prices with reference to a comparable reseller that it reasonably believed to be charging lawful prices would have been unlikely to have had an average markup in excess of twenty cents per barrel. If the circumstances demonstrate that a new reseller priced its crude oil on the basis of the selling prices of the nearest comparable reseller that had a lawful average markup higher than twenty-cents per barrel, the new reseller would not be in violation of the permissible average markup rule even if its average markup exceeded twent-cents per barrel.

In addition to the comments submitted by the four post-November 1977 resellers and the two other resellers which have expected to be treated as post-November 1977 resellers, two other firms addressed the proposed application of a permissible average markup of fifteen cents per barrel to sales by post-November 1977 resellers on or after January 1, 1978. One of these firms, a small independent refiner, while not questioning the adequacy of a fifteen-cent average markup, expressed its dismay that the proposal was one more example of the DOE's reliance on retroactive rulemaking. As indicated in the immediately preceding paragraph, we have determined that, in view of the notice given to new resellers that a permissible average markup would be adopted for such firms and the interim pricing guidance given to these firms, the adoption today of a twenty-cent permissible average markup for post-November 1977 resellers cannot fairly be characterized as retroactive rulemaking or otherwise prejudicial to new resellers. Another commenter, a crude oil reseller doing business in May 1973, voiced strong support for the proposed fifteen-cent markup for post-November 1977 resellers, since it believes that the lack of a formula for establishing the permissible average markup for new entrants has attracted opportunists to the crude oil marketing business with resulting arbitrary disparities in resellers' average markups. We agree with this conclusion; a primary reason for issuing today's rule is our belief that the lack of a specified permissible average markup for new resellers has in most instances precluded effective enforcement of the regulations against such resellers and has, therefore, contributed to temporary inequities in the reselling market.

Most resellers generally focused their comments on the October 1979 proposals that would provide for the establishment for all resellers of a permissible average markup of twenty-five cents per barrel (before recoupment of general and administrative expenses) in sales where the reseller transported the crude oil involved, and a permissible markup of one cent per barrel for all resellers in sales where the reseller did not transport the crude oil involved but met other specified criteria. Resellers almost unanimously expressed adamant opposition to these proposals. While most resellers acknowledged instances of abuse involving sham transactions and layering, these same commenters (including transporters, most independent refiners, and most independent producers) expressed the view that these problems could and should be responded to with more aggressive enforcement action, rather than overly broad rulemaking action against resellers generally. They also expressed the view that resellers usually perform valuable services even in sales where they do not transport crude oil

and that a requirement that resellers take smaller markups in non-transporting sales would be both unjustified and entail an unreasonable administrative burden. Uniform permissible average markups suggested by resellers for prospective application ranged from twenty-five cents to seventy-six cents per barrel after recoupment of all other costs.

We are still considering all the comments received in this proceeding in order to determine whether Subpart L should be revised to provide larger markups or uniform markups for all resellers, regardless of when they entered the business.

IV. Amendments Adopted

A. Permissible Average Markup Rule.

On the basis of the foregoing, we are today adopting a twenty-cent permissible average markup for post-November 1977 resellers for application to sales by such firms both prospectively and since December 31, 1977. This rule should not be used to apply to any transactions which violate the layering clause of § 212.186 of Subpart L. Neither should today's action be viewed as an indication of the nature of any further action we may take in this proceeding to establish permissible average markups for different types of crude oil transactions.

B. Self-Correcting Refund Provisions

Under the rule adopted today, post-November 1977 resellers must use the permissible average markup of twenty cents for all months since December 1977, or the safe harbor provisions of § 212.183(c). We recognize that the lack of a fixed average markup may have created difficulties in some instances for some firms that diligently attempted to follow the provisions of § 212.183(c). In order to insure that such firms need not be in violation of today's rule we are also adopting self-correcting refund provisions analogous to those of § 212.185(a). This will provide the post-November 1977 resellers with the ability to achieve compliance with today's rule by correcting overcharges in a manner similar to that used by other resellers that have been subject to the permissible average markup rule since January 1, 1978. This amendment provides that, if in any month during the period January 1978 through August 1980 a post-November 1977 reseller's average markup exceeded its permissible average markup, the reseller must by November 30, 1980 refund to each firm which purchased crude oil from the reseller during the month the amount by which the average markup exceeded the permissible average markup multiplied by the number of barrels purchased by the purchaser in that month. The refunds must be either in the form of cash or credit memorandum.

The self-correcting refund provision applies only to violations by new resellers of the permissible average markup rule adopted today. It does not apply to any other violations that may have been engaged in by a new reseller, such as violations of the anti-layering provisions of § 212.186 or the certification provisions of §§ 212.131 and 212.185(c).

V. Procedural Matters

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Act, we have referred this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. On January 28, 1980, following an opportunity to review the proposal pursuant to which this rule is being adopted, the FERC informed the ERA that it declined to determine that it may significantly affect any of its functions.

B. National Environmental Policy Act

It has been determined that these amendments do not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C. *et seq.*), and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

C. Regulatory Analysis

In the October 1979 notice of proposed rulemaking we announced our conclusion that the preparation of a regulatory analysis would not be required in the context of this proceeding. However, following a preliminary review of the comments, we decided that the preparation of a regulatory analysis would be helpful in our consideration of the proposed amendments. While we have not yet completed a regulatory analysis encompassing all aspects of the October 1979 proposals, we have prepared a final regulatory analysis which examines the estimated impact of today's action to establish a permissible average markup for application to sales by post-November 1977 resellers on or after January 1, 1978 and prospectively. This regulatory analysis, which is set forth below, was prepared in view of the comments and testimony received with regard to the rule being adopted today and information collected by means of Form ERA-69.

Regulatory Analysis

Specifications of Margin for Firms That First Resold Crude Oil After November 30, 1977

Background

The current price regulations applicable to resales of crude oil (10 CFR, Part 212, Subpart L) were effective on January 1, 1978 (42 FR 64856, December 29, 1977). In these regulations, the ERA recognized three classes of resellers. The first group includes resellers that resold crude oil during May 1973. Those firms that first resold crude after May 1973 but before December 1, 1977 are in the second group. All firms that first resold crude oil on or after December 1, 1977 are in the third group.

In general, firms in the first group use their actual average markups in May 1973, calculated in accordance with the methodology of Subpart L, in determining their permissible average markups under Subpart L. Firms in the second group are to calculate their permissible average markups from their lawful revenues from crude oil resales in November 1977, less costs associated with crude oil resales in that month, plus the per-barrel increase in general and administrative expense and transportation and gathering cost incurred since the reseller's first month of sales, divided by the number of barrels of crude oil resold in that month.

The permissible average markup for all firms in the third group is the "permissible average markup established by ERA." Any reseller in this group whose average markup in any month prior to the adoption of a permissible average markup by ERA exceeds the value established by the ERA shall "be deemed to have complied with the price rule * * * if the prices charged by the reseller for each grade of lower tier, upper tier, and stripper well and other exempt crude oil did not exceed the prices in transactions of the nearest comparable reseller in the month."

Data on permissible average markups of resellers in the first group were obtained by the ERA in late 1979. Average markup data and other information concerning the operations of all other resellers in their base months and in all months in 1978 and 1979 were submitted to the ERA on Form ERA-69 by early 1980. This data is used in this

analysis to determine the appropriate permissible average markup for all resellers in the third group and to assess the potential impact of the adoption of that permissible average markup on the profits of these new firms.

Establishment of Maximum Permissible Average Margin

A general principle in determining the appropriate permissible average markup for resellers in the third group is that their allowable markups should generally be equivalent to those of older firms that have been and are subject to the price regulations. Under Subpart L all resellers first reselling crude oil prior to December 1977 are required, in order to determine their permissible average markups, to utilize formulas designed to insure that their permissible average markups will be consistent with the average markups realized by resellers in May 1973. Furthermore, post-November 1977 resellers have been advised not to exceed the prices charged by their nearest comparable resellers if they wish to be assured of compliance with the price regulations. Accordingly, an average markup from near the high end of the range of average markups realized by resellers in May 1973 can serve as a reasonable maximum average markup for resellers first reselling crude oil after December 1, 1977, while at the same time providing considerable pricing flexibility and a fair return to the new entrant.

Thirty-nine firms reported resales in May 1973. Five of these firms included no values for gathering and transportation or general and administrative costs. Since resellers must incur general and administrative expenses, we concluded that the data from these five firms was probably incomplete, and we did not include it in the analysis. We also excluded the data from one firm because it was highly aberrant. This firm reported an average markup of $3.95. The next highest reported average markups were $0.60, $0.57, and $0.31.

The average markups of the thirty-three remaining resellers that reported crude oil sales in May 1973 were used to estimate the population of all reseller average markups in May 1973. Two distributions were drawn. The first weighted the average markups of all firms equally, and the second weighted them by the volume of crude oil sold by the firm. Both distributions are approximations of the "normal" statistical curve throughout most of their range. Therefore, the parameters of the "normal" curve were used to determine the percentile distributions of average markups in May 1973.

The firm distribution has a median margin of twelve to thirteen cents, with eighty-five percent of all firms having average markups below twenty-five cents per barrel in May 1973. The volume weighted distribution has the same median value (twelve to thirteen cents). Eighty-five percent of the volume resold in May 1973 was sold by firms that realized average markups below sixteen cents, and ninety-nine percent was sold by firms that realized average markups below twenty cents.

Summary of Distributions of Average Markups in May 1973

Average markup/Bbl.	Firms below average markup (percent)	Volume sold below average markup (percent)
12 to 13 cents	50	50
14 cents		73
16 cents		85
17 cents		90
20 cents	73	99
25 cents	85	
28 cents	90	

The values to be evaluated were chosen from these distributions. As ninety-nine percent of the volume was sold by firms that realized average markups below twenty cents, this value was evaluated as a permissible average markup for the third group of resellers. This value exceeded the average markup of seventy-three percent of the firms in May 1973. The value of twenty-five cents, which was not exceeded by eight-five percent of the firms in May 1973, and the fifteen-cent value proposed in the October notice of proposed rulemaking were also evaluated.

Effect of Choice of Permissible Average Markup on the Third Group of Resellers

All firms that started crude oil reselling operations after November 1977 have been required to submit the actual cost incurred and average markups realized in each month of 1978 and 1979. Certain criteria were used to select data that appeared to be valid for this analysis. These criteria, as reflected in the following table, were essentially the same as that used to select the most representative data for firms with crude oil resales in May 1973.

Performance of Resellers That Began Operations After November 1977

[Dollars in millions]

Month	Volume M bbls	Maximum total markup	Additional revenue [1] 15 cents	20 cents	25 cents	Number of firms reporting average markups in excess of specified value: Total number of firms	15 cents	20 cents	25 cents
1978:									
January	1,817	$99	$49	$37	$26	11	3	3	3
February	2,714	128	74	67	60	15	7	7	7
March	5,866	1,147	757	649	542	20	12	10	10
April	5,878	1,645	924	785	646	23	10	8	8
May	13,512	3,163	1,273	785	654	23	12	8	5
June	12,471	3,515	1,808	1,384	984	24	13	11	9
July	13,554	3,382	1,522	1,041	650	22	12	8	6
August	13,138	1,629	505	398	334	24	10	6	6
September	20,714	1,348	456	369	283	25	10	9	9
October	19,613	2,040	1,155	1,013	894	27	14	10	8
November	6,309	1,035	317	209	123	28	12	9	8
December	9,069	1,859	709	499	370	27	16	14	13
Subtotal	124,655	20,990	9,549	7,236	5,566				
1979:									
January	25,507	3,849	2,118	1,732	1,420	33	18	15	12
February	17,452	3,327	1,754	1,346	1,018	30	20	17	14
March	17,800	5,164	2,930	2,381	1,842	32	20	19	16
April	24,817	6,076	3,532	2,894	2,285	35	20	18	15
May	21,378	6,611	4,155	3,566	2,982	39	23	23	21
June	25,038	9,005	6,569	5,841	5,133	36	23	21	19
July	14,039	6,379	4,621	4,153	3,830	35	21	18	15
August	25,459	8,856	6,076	5,262	4,504	36	23	21	20
September	33,302	11,367	7,377	6,118	4,977	36	19	19	16
October	41,213	15,579	10,647	9,123	7,647	37	22	21	18
November	26,266	10,523	7,578	6,858	6,209	39	25	22	20
December	25,558	10,353	8,178	7,513	6,851	39	19	18	17
Subtotal	287,929	97,090	65,535	56,787	48,698				
Total	422,484	118,080	75,084	64,023	54,264				

[1] Annual revenue in excess of that which would result from average markups in excess of selected values.

The data show that the number of crude oil reselling firms increased in the two year period as did their total monthly markup and sales volume. The number of firms having average markups greater than fifteen cents, twenty cents, and twenty-five cents also increased.

The total combined revenue received by post-November 1977 firms in excess of what they would have realized by conformance to each average markup selected for evaluation as the permissible average markup (PAM) for post-November 1977 resellers is indicated in the following table

Additional Revenue

[Dollars million]

Year	15 AM	20¢ PAM	25¢ PAM
1978	9.5	7.3	5.6
1979	65.5	56.8	48.7
Combined	75.1	64.0	54.3

To the extent post-November 1977 resellers would be able to demonstrate good faith reliance in estabishing their prices—and therefore their average markups—by reference to the prices charged by comparable resellers with average markups higher than the selected values, the maximum potential excess revenue would decrease in relation to the actual excess revenue.

Conclusion

As almost all crude oil resold by resellers in May 1973 was sold at an average markup of less than twenty cents, this value is the most consistent with the objective of placing new entrants on an equal footing with established firms.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Admninistration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91, Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620, and Pub. L. 95-621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the ERA amends 10 CFR 212.182, 212.183 and 212.185 as set forth below, effective September 1, 1980.

Issued in Washington, D.C. July 29, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

§ 212.182 [Amended]

1. 10 CFR 212.182 is amended by revising the definition of "permissible average markup" to read as follows:

* * * * *

"Permissible average markup" means, with respect to a reseller which sold crude oil before or during May 1973, the total lawful revenues in all sales of crude oil by the reseller in May 1973 less all allowed costs and expenses associated with sales of crude oil in that month, divided by the number of barrels of crude oil sold by the reseller in that month. With respect to a reseller which sold crude oil before December 1, 1977, but not before or during May 1973, "permissible average, markup" means the total lawful revenues from sales of crude oil received by such reseller during the month of November 1977, less the total costs and expenses associated with sales of crude oil for that month, divided by the number of barrels of crude oil sold in that month, plus the per-barrel increase in general and administrative expense and transportation and gathering cost incurred since such reseller's first month of crude oil sales. With respect to a reseller which did not sell crude oil before December 1, 1977, "permissible average markup" means 20 cents per barrel.

* * * * *

2. 10 CFR 212.183(c) is revised to read as follows:

§ 212.183 Price rule.

* * * * *

(c) *Resellers which did not sell crude oil before December 1, 1977.* If, in any month prior to the establishment by ERA of a permissible average markup applicable to a reseller which did not sell crude oil prior to December 1, 1977, such reseller's average markup exceeds 20 cents per barrel, the reseller shall nevertheless be deemed to have complied with the price rule set forth in paragraph (a) of this section, if the prices charged by the reseller for each grade of lower tier, upper tier, and stripper well and other exempt crude oil did not exceed the prices at which such crude oil was priced in transactions of the nearest comparable reseller in the month.

* * * * *

3. 10 CFR 212.185 is amended by the addition of a new paragraph (c) to read as follows:

§ 212.185 Corrections for overcharges.

* * * * *

(a) *Overcharges in a month.* * * *

(b) *Successive overcharges.* * * *

(c) *Exception.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, if in any month between December 1977 and September 1980, the average markup of a reseller which did not sell crude oil prior to December 1, 1977 exceeds (1) the reseller's permissible average markup and (2) the prices at which crude oil such as that sold by the reseller in the month was priced in transactions of the reseller's nearest comparable reseller in the month, the reseller must refund to each purchaser which purchased from the reseller during the month an amount determined in accordance with the following formula:

$$R=(M_t-M_o)\,B_t$$

Where,

t = the month during which the reseller's average markup exceeded its permissible average markup;

R = the amount of the refund required;

M_t = the average markup for the month for the t;

M_o = the permissible average markup and;

B_t = the number of barrels of crude oil sold to each purchaser in the month t.

The refunds required by this section shall be made prior to or on November 30, 1980.

* * * * *

[FR Doc. 80-23434 Filed 8-4-80; 8:45 am]

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Federal Register

Tuesday
August 5, 1980

Part V

Department of Energy

Industrial Energy Conservation Program; Listing of Exempt Corporations and Adequate Reporting Programs

DEPARTMENT OF ENERGY

[Docket No. CAS-RM-80-304]

Industrial Energy Conservation Program; Listing of Exempt Corporations and Adequate Reporting Programs

AGENCY: Department of Energy.

ACTION: Notice of exempt corporations and adequate reporting programs.

SUMMARY: As provided in its regulations governing the Industrial Energy Conservation Program, set forth at 10 CFR Part 445, the Department of Energy (DOE) is exempting certain corporations from the requirement of filing corporate reporting forms with DOE and is determining as adequate certain industrial reporting programs for sponsor reporting. The exempt corporations and the respective sponsors of adequate programs are listed alphabetically by industry in the appendix to this notice. DOE will accept written comments with respect to 16 sponsors of industrial reporting programs and their participating corporations which were not included in the proposed list.

DATE: Written comments must be received by September 4, 1980.

ADDRESS: Comments should be addressed to Carol Snipes, U.S. Department of Energy, Office of Conservation and Solar Energy, Mail Station 6B-026, 1000 Independence Avenue, SW., Washington, D.C., 20585, Docket No. CAS-RM-80-304.

FOR FURTHER INFORMATION CONTACT:
Tyler E. Williams, Jr., Office of Industrial Programs, Mail Stop 2H-085, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-2371.
Pamela M. Pelcovits, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-9516.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) recently issued regulations in 10 CFR Part 445 (45 FR 10194, February 14, 1980) which set forth the requirements of DOE's Industrial Energy Conservation Program, as established by Part E of Title III of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619). These regulations, in part, require certain industrial corporations to file reports either directly with DOE or, if exempted, with sponsors of DOE-approved adequate reporting programs.

On May 12, 1980, DOE issued a "Notice of Proposed Exempt Corporations and Adequate Reporting Programs" (45 FR 33828, May 20, 1980), as required by 10 CFR 445.37. Changes in the list issued today are a result of (1) technical corrections based on comments received from affected corporations and sponsors of reporting programs, (2) deletions based on DOE's determination that several corporations that are not required to participate in the Industrial Energy Conservation Program had incorrectly requested exemptions, and (3) the inclusion of 16 additional sponsors of industrial reporting programs (and their participating corporations) which had not filed complete requests, as described in 10 CFR 445.35, by the March 31, 1980 deadline. DOE is determining these 16 as sponsors of adequate reporting programs without prior opportunity for public comment due to the near-term deadline for meeting the reporting requirements of Part 445. This avoids imposing an undue burden on the participating corporations, pursuant to section 375(d) of EPCA.

Comments on the 16 sponsors and their participating corporations (indicated by asterisks in the appendix to this notice) should be submitted to the address indicated in the "ADDRESS" section above on or before September 4, 1980. Five copies of all written comments should be provided.

Parentheses with the word "partial" follow any corporation which will be reporting other than its total energy data in any particular two-digit SIC code through the program sponsor under which it is listed. This signifies that the corporation will be reporting only part of its data for the SIC code through that sponsor and may be reporting the rest of its efficiency data through another sponsor or sponsors or directly to DOE.

Issued in Washington, D.C., July 25, 1980.

Worth Bateman,
Acting Under Secretary.

Exempt Corporations and Sponsors of Adequate Reporting Programs

SIC 20—Food and Kindred Products

American Bakers Association
- Campbell Soup Company (partial)
- Campbell Taggart, Inc.
- Consolidated Foods Corporation (partial)
- Flowers Industries Inc.
- G. Heileman Brewing Company, Inc. (partial)
- ITT Continental Baking Company Inc. (partial)
- Interstate Brands Corporation

American Feed Manufacturers Association
- Archer Daniels Midland Company (partial)
- Cargill Inc.
- Central Soya Company Inc. (partial)
- Gold Kist Inc.
- Land O'Lakes, Inc. (partial)
- Moorman Manufacturing Company
- Ralston Purina Company (partial)

American Frozen Food Institute
- Campbell Soup Company (partial)
- J. R. Simplot Company
- RCA Corporation

American Meat Institute
- Beatrice Foods Company (partial)
- Consolidated Foods Corporation (partial)
- Farmland Industries Inc.
- Geo. A. Hormel & Company
- General Host Corporation (partial)
- Greyhound Corporation
- ITT Continental Baking Company Inc. (partial)
- Oscar Mayer & Company
- Rath Packing Company
- Swift & Company
- United Brands Company
- Wilson Foods Corporation

Biscuit & Cracker Manufacturers Association
- American Brands Inc. (partial)
- Keebler Company
- Nabisco Inc. (partial)

Corn Refiners Association
- A. E. Staley Manufacturing Company (partial)
- American Maize-Products Company
- Anheuser-Busch Inc. (partial)
- CPC International Inc.
- Grain Processing Corporation
- H. J. Heinz Company (partial)
- National Starch & Chemical Corporation

Grocery Manufacturers of America, Inc.
- A. E. Staley Manufacturing Company (partial)
- American Home Products Corporation
- Ampco Foods Inc.
- Amstar Corporation
- Anderson Clayton & Company
- Archer Daniels Midland Company (partial)
- Beatrice Foods Company (partial)
- Borden Inc. (partial)
- Carnation Company
- Central Soya Company, Inc. (partial)
- Coca-Cola Company
- Consolidated Foods Corporation (partial)
- General Foods Corporation
- General Mills Inc.
- Great A & P Tea Company Inc.
- H. J. Heinz Company (partial)
- Hershey Foods Corporation
- Heublein Inc.
- I. C. Industries Inc.
- ITT Continental Baking Company Inc. (partial)
- Kellogg Company
- Kraft Inc.
- Kroger Company
- Mars Inc.
- Nabisco Inc. (partial)
- Pepsico Inc.
- Pillsbury Company
- Procter & Gamble Company
- Quaker Oats Company
- Ralston Purina Company (partial)
- R. T. French Company
- Savannah Foods & Industries Inc. (partial)
- Standard Brands Incorporated
- Thomas J. Lipton Inc.
- Universal Foods Corporation

National Food Processors Association
- California Canners and Growers Company
- Campbell Soup Company (partial)
- Castle & Cooke Inc.

Curtice-Burns Inc.
Del Monte Corporation
Gerber Products Company
H. J. Heinz Company (partial)
Norton Simon Inc.
R. J. Reynolds Industries, Inc.
Stokely-Van Camp Inc.
Sunkist Growers Inc.
Tri/Valley Growers Inc.
*National Meat Association
Dubuque Packing Company
Iowa Beef Processors Inc.
MBPXL Corporation
National Frozen Food Association
ITT Continental Baking Company Inc. (partial)
Pharmaceutical Manufacturers Association
Eli Lilly and Company
U.S. Beet Sugar Association
Amalgamated Sugar Company
American Crystal Sugar Company
Consolidated Foods Corporation (partial)
Holly Sugar Corporation
Michigan Sugar Company
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Southern Minnesota Sugar Cooperative
U.S. Brewers Association
Adolph Coors Company
Anheuser-Busch Inc. (partial)
Archer Daniels Midland Company (partial)
Grain Terminal Association (partial)
G. Heileman Brewing Company, Inc. (partial)
Jos. Schlitz Brewing Company
Ladish Malting Company
Olympia Brewing Company
Pabst Brewing Company
Philip Morris, Inc.
The Stroh Companies Inc.
U.S. Cane Sugar Refiners Association
Archer Daniels Midland Company (partial)
Broden Inc. (partial)
California & Hawaiian Sugar Company
Imperial Sugar Company
Refined Syrups & Sugars Inc.
Revere Sugar Corporation
Savannah Foods & Industries Inc. (partial)

SIC 22—Textile Mill Products

American Textile Manufacturers Institute
American Thread Company
Avondale Mills Inc.
Bibb Company
Burlington Industries Inc.
Cannon Mills Company
Clinton Mills Inc.
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc.
J. P. Stevens & Company Inc.
Johnson & Johnson
M. Lowenstein & Sons Inc.
Milliken & Company
Northwest Industries Inc.
Reeves Brothers Inc.
Riegel Textile Corporation
Spartan Mills Inc.
Sperry and Hutchinson Company (partial)
Springs Mills Inc.
Standard-Coosa-Thatcher Company
Texfi Industries Inc.
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.
Carpet & Rug Institute
Mohasco Corporation
Shaw Industries Inc.
Sperry and Hutchinson Company (partial)
Standard Oil Company (Indiana)
WWG Industries Inc.

SIC 24—Lumber and Wood Products

National Forest Products Association
Boise Cascade Corporation
Champion International Corporation
Crown Zellerbach Corporation
Georgia-Pacific Corporation
Kimberly-Clark Corporation
Koppers Company Inc.
Macmillan Bloedel Inc.
Masonite Corporation
Potlatch Corporation
Southwest Forest Industries Inc.
Time Inc.
Union Camp Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 26—Paper and Allied Products

American Paper Institute
Abitibi Corporation
Alton Box Board Company
American Can Company
Appleton Papers Inc.
Arcata Corporation
Austell Box Board Corporation
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Champion International Corporation
Chesapeake Corporation
Clevepak Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Continental Group Inc.
Crown Zellerbach Corporation
Dexter Corporation
Diamond International Corporation
Eddy Paper Company Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper, Limited
GAF Corporation
Garden State Paper Company Inc.
Georgia Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf & Western Industries Inc.
Gulf States Paper Corporation
Hammermill Paper Company
Hollingsworth & Vose Company
International Paper Company
International Telephone & Telegraph Corporation
James River Corporation of Virginia
Johnson & Johnson
Kimberly-Clark Corporation
Litton Industries Inc.
Longview Fibre Company
Macmillan Bloedel Inc.
Marcal Paper Mills Inc.
Masonite Corporation
Mead Corporation
Menasha Corporation
Mobil Oil Corporation (partial)
Mosinee Paper Corporation
National Gypsum Company
Newark Boxboard Company
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Illinois Inc.
PH Glatfelter Company
Pacific Paperboard Products Inc.
Penntech Papers Inc.
Pentair Industries Inc.
Pineville Kraft Corporation
Port Huron Paper Company
Potlatch Corporation
Procter & Gamble Company
Scott Paper Company
Simpson Paper Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries Inc.
St. Joe Paper Company
St. Regis Paper Company
Stone Container Corporation
Tenneco Inc.
Time Inc.
Times Mirror Company
Union Camp Corporation
Virginia Fibre Corporation
Wausau Paper Mills Company
Western Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.
Chemical Manufacturers Association
Minnesota Mining & Manufacturing Company
Mobil Oil Corporation (partial)
Glass—Pressed & Blown (Battelle Institute)
Owens-Corning Fiberglas Corporation

SIC 28—Chemicals and Allied Products

Aluminum Association
Aluminum Company of America
Reynolds Metals Company
American Feed Manufacturers Association
Cargill Inc.
Chemical Manufacturers Association
Air Products & Chemicals Inc.
Airco Inc.
Akzona Inc.
Allied Chemical Corporation
American Can Company
American Cyanamid Company
American Hoechst Corporation
American Petrofina Inc.
Arizona Chemical Company
Ashland Oil Inc.
Atlantic Richfield Company
Avtex Fibers Inc.
B F Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Big Three Industries Inc.
Borden Inc. (partial)
Borg-Warner Corporation
Buffalo Color Corporation
Cabot Corporation
CARUS Chemical Company Inc.

Celanese Corporation
CIBA-GEIGY Corporation
Cities Service Company
Commonwealth Oil Refining Company
CONOCO Inc.
CPC International Inc.
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E I Du Pont De Nemours & Company
Eastman Kodak Company
El Paso Products Company
Ethyl Corporation
Exxon Corporation
Firestone Tire & Rubber Company
FMC Corporation
Freeport Minerals Company
GAF Corporation
General Tire & Rubber Company
Georgia-Pacific Corporation
Getty Chemical Company
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Halcon International Inc.
Henkel Corporation
Hercules Incorporated
ICI Americas Inc.
International Minerals & Chemicals Corporation (partial)
Inter North Inc.
Kaiser Aluminum & Chemical Corporation
Kerr-McGee Corporation
Koppers Company Inc.
Kraft Inc.
Lever Brothers Company
Lubrizol Corporation
Mallinckrodt Inc.
Minnesota Mining & Manufacturing Company
Mobay Chemical Corporation
Mobil Oil Corporation
Monsanto Company
Morton Norwich Products Inc. (partial)
Nalco Chemical Company
National Distillers & Chemical Corporation
NIPRO Inc.
NL Industries Inc.
Occidental Petroleum Corporation (partial)
Olin Corporation
Pennwalt Corporation
Pfizer Inc.
Phillips Petroleum Company
PPG Industries Inc.
PQ Corporation
Procter & Gamble Company
Reilly Tar & Chemical Corporation
Rohm and Haas Company
Shell Oil Company
Sherex Chemical Company Inc.
Soltex Polymer Corporation
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Stauffer Chemical Company
SunOlin Chemical Company
Tenneco Inc.
Texaco Inc.
Texasgulf Inc.
Thiokol Corporation
Union Carbide Corporation
Uniroyal Inc.
United States Borax & Chemical Corporation
United States Steel Corporation (partial)
Upjohn Company (partial)
Velsicol Chemical Corporation
Vertac Inc. (partial)
Virginia Chemicals Inc.
Vulcan Materials Company
W. R. Grace & Company
Westvaco Corporation
Weyerhaeuser Company
Witco Chemical Corporation

Fertilizer Institute
Beker Industries Corporation
Borden Inc. (partial)
C F Industries Inc.
Coastal Corporation (Wycon Chemical Company)
Cominco America Inc.
Estech General Chemicals Corporation
Farmland Industries Inc.
First Mississippi Corporation
Gardinier Big River Inc.
Green Valley Chemical Company
Hawkeye Chemical Company
International Minerals & Chemical Corporation (partial)
J. R. Simplot Company
Mississippi Chemical Corporation
Occidental Petroleum Corporation (partial)
Reichhold Chemicals Inc.
Terra Chemicals International Inc.
Tyler Corporation (Atlas Powder Company)
Union Oil Company of California
United States Steel Corporation (partial)
Vertac Inc. (partial)
The Williams Companies

Pharmaceutical Manufacturers Association
Abbott Laboratories
American Home Products Corporation (partial)
Eli Lilly & Company
Hoffmann-La Roche Inc.
Johnson & Johnson
Merck & Company Inc.
Miles Laboratories Inc.
Richardson Merrell Inc.
Squibb Corporation
Upjohn Company (partial)
Warner-Lambert Company

SIC 29—Petroleum and Coal Products

American Petroleum Institute
Agway Inc.
American Petrofina Inc.
Asamera Oil (US) Inc.
Ashland Oil Inc.
Atlantic Richfield Company
Beacon Oil Company
Champlin Petroleum Company
Charter International Oil Company
Cities Services Company
Clark Oil & Refining Corporation
Coastal Corporation
Commonwealth Oil Refining Company
CONOCO Inc.
Crown Central Petroleum Corporation
Crystal Oil Company
Diamond Shamrock Corporation
Dorchester Gas Corporation
Earth Resources Company
Energy Cooperative Inc.
Exxon Corporation
Farmers Union Central Exchange Inc.
Farmland Industries Inc.
Fletcher Oil & Refining Company
Getty Refining & Marketing Company (partial)
Gulf Oil Corporation
Holly Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Kerr-McGee Corporation
Koch Industries Inc.
Little America Refining Company
Marathon Oil Company
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association
OKC Corporation
Pacific Resources Inc.
Pennzoil Company
Phillips Petroleum Company
Placid Refining Company
Powerine Oil Company
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Southern Union Company
Southland Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Sun Company Inc.
Tenneco Inc.
Tesoro Petroleum Corporation
Texaco Inc.
Texas Eastern Transmission Corporation
Time Oil Company
Tosco Corporation
Total Petroleum Inc.
Union Oil Company of California
USA Petroleum Corporation
Vickers Petroleum Corporation
Winston Refining Company
Witco Chemical Corporation

Chemical Manufacturers Association
GAF Corporation
Great Lakes Carbon Corporation
Koppers Company Inc.
Uniroyal Inc.

Glass—Pressed and Blown (Battelle Institute)
Owens-Corning Fiberglas Corporation

SIC 30—Rubber and Miscellaneous Plastic Products

Chemical Manufacturers Association
American Cyanamid Company
Dart Industries Inc.
Ethyl Corporation
Exxon Corporation
Minnesota Mining & Manufacturing Company
Union Carbide Corporation
W. R. Grace & Company

Rubber Manufacturers Association
Armstrong Rubber Company
B. F. Goodrich Company
Cooper Tire & Rubber Company
Dayco Corporation
Dunlop Tire & Rubber Corportation
Firestone Tire & Rubber Company
Gates Rubber Company
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Owens-Illinois Inc.
Uniroyal Inc.

SIC 32—Stone, Clay and Glass products

*Brick Institute of America
Belden Brick Company
Bickerstaff Clay Products Company Inc.

Boren Clay Products Company
Delta Brick & Tile Company
General Dynamics Corporation (partial)
General Shale Products Corporation
Glen-Gery Corporation
Justin Industries Inc.
Chemical Manufacturers Association
Englehard Minerals & Chemicals Corporation
GAF Corporation
Minnesota Mining & Manufacturing Company
Vulcan Materials Company (partial)
*Expanded Shale Clay and Slate Institute
Lehigh Portland Cement Company (partial)
Solite Corporation
Texas Industries Inc. (partial)
Vulcan Materials Company (partial)
Glass—Flat (Eugene L. Stewart)
AFG Industries Inc.
Combustion Engineering Inc.
Ford Motor Company
Guardian Industries Corporation
Libbey-Owens-Ford Company
PPG Industries Inc.
Glass Packaging Institute
Adolph Coors Company
Anchor Hocking Corporation (partial)
Ball Corporation
Brockway Glass Company Inc.
Dart Industries Inc.
Dorsey Corporation
Gallo Glass Company
Glenshaw Glass Company Inc.
Indian Head Inc.
Kerr Glass Manufacturing Corporation
Kraft Inc.
Latchford Glass Company
Liberty Glass Company
Midland Glass Company Inc.
National Bottle Manufacturing Company
National Can Corporation
Norton Simon Inc.
Owens-Illinois Inc. (partial)
Wheaton Industries
*Glass—Pressed & Blown (Battelle Institute)
Anchor Hocking Corporation (partial)
Certainteed Corporation
Corning Glass Works (partial)
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc. (partial)
Gypsum Association
Domtar Industries Inc. (partial)
Flintkote Company (partial)
Georgia-Pacific Corporation
Jim Walter Corporation (partial)
National Gypsum Company (partial)
Pacific Coast Building Products Company (partial)
United States Gypsum Company (partial)
*National Lime Association
Ash Grove Cement Company (partial)
Bethlehem Steel Corporation (partial)
Domtar Industries Inc. (partial)
Dravo Corporation
Edw. C. Levy Company
Flintkote Company (partial)
General Dynamics Corporation (partial)
J. E. Baker Company (partial)
Martin Marietta Corporation (partial)
National Gypsum Company (partial)
Pfizer Inc. (partial)
Round Rock Lime Company
St. Clair Lime Company
United States Gypsum Company (partial)
Warner Company
Woodville Lime & Chemical Company
*Portland Cement Association
Alpha Portland Cement Company
Amcord Inc.
Arkansas Louisiana Gas Company
Ash Grove Cement Company (partial)
California Portland Cement Company
Capitol Aggregates Inc.
Centex Corporation
Citadel Cement Corporation
Coplay Cement Manufacturing Company
Crane Company
Cyprus Hawaiian Cement Company
Dundee Cement Company
Filtrol Corporation
Flintkote Company (partial)
Florida Mining & Materials Corporation
General Portland Cement Company
Giant Portland & Masonry Cement Company
Gifford-Hill & Company Inc.
Gulf & Western Industries Inc. (partial)
Ideal Basic Industries Inc.
Independent Cement Corporation
Kaiser Cement & Gypsum Corporation
Keystone Portland Cement Company
Lehigh Portland Cement Company (partial)
Lone Star Industries Inc.
Louisville Cement Company
Martin Marietta Corporation (partial)
McDonough Company
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
National Cement Company
National Gypsum Company (partial)
Newmont Mining Corporation
Northwestern St. Portland Cement Company
OKC Corporation
Oregon Portland Cement Company
Penn-Dixie Industries Inc.
Rinker Portland Cement Corporation
River Cement Company
San Antonio Portland Cement Company
South Dakota Cement Company
Southdown Inc.
Texas Industries Inc. (partial)
United States Steel Corporation
Whitehall Cement Manufacturing Company
*Refractories Institute
Allied Chemical Corporation
Babcock & Wilcox Company
Combustion Engineering Inc. (partial)
Corning Glass Works (partial)
Dresser Industries Inc. (partial)
Ferro Corporation (partial)
General Refractories Company (partial)
Interpace Corporation (partial)
J. E. Baker Company (partial)
Kaiser Aluminum & Chemical Corporation
Kennecott Copper Corporation
Martin Marietta Corporation (partial)
Norton Company (partial)
Pfizer Inc. (partial)
United States Gypsum Company (partial)
*Tile Council of America
National Gypsum Company (partial)

SIC 33—Primary Metal Industries

Aluminum Association
Alcan Aluminum Corporation
Alumax Inc.
Aluminum Company of American
American Can Company
Atlantic Richfield Company (partial)
Cabot Corporation
Consolidated Aluminum Corporation
Ethyl Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
National Steel Corporation (partial)
Noranda Aluminum Inc.
Pechiney Ugine Kuhlmann Corporation (partial)
Revere Copper and Brass Inc. (partial)
Reynolds Metals Company
Southwire Company
*American Die Casting Institute
Hayes-Albion Corporation (partial)
American Foundrymen's Society
American Cast Iron Pipe Company
Clow Corporation
Dayton Malleable Inc.
Grede Foundries Inc.
Hayes-Albion Corporation (partial)
Jim Walter Corporation (partial)
Mead Corporation
Teledyne Inc. (partial)
American Iron & Steel Institute
A. Finkl & Sons Company
Allegheny Ludlum Industries Inc.
Armco Inc.
Athlone Industries Inc.
Atlantic Steel Company
Babcock & Wilcox Company
Bethlehem Steel Corporation
Cargill Inc.
Carpenter Technology Corporation
Colt Industries Inc.
Crane Company
Cyclops Corporation
Eastmet Corporation
Envirodyne Industries Inc.
Florida Steel Corporation
Ford Motor Company
Inland Steel Company
Interlake Inc. (partial)
Kaiser Steel Corporation
Keystone Consolidated Industries Inc.
Korf Industries Inc.
Laclede Steel Company
LTV Corporation
Lukens Steel Corporation
McLouth Steel Corporation
National Steel Corporation (partial)
Northwest Industries Inc. (partial)
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Penn-Dixie Steel Corporation
Phoenix Steel Corporation
Republic Steel Corporation
Sharon Steel Corporation
Shenango Inc.
Structural Metals Inc.
Teledyne Inc. (partial)
Timken Company
United States Steel Corporation
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation
*American Mining Congress
Amax Inc.
Asarco Inc.
Atlantic Richfield Company (partial)
Inspiration Consol Copper Company
Kennecott Copper Corporation (partial)
Louisiana Land & Exploration Company (partial)
Newmont Mining Corporation (partial)
Phelps Dodge Corporation (partial)
St. Joe Minerals Corporation

Chemical Manufacturers Association
Allied Chemical Corporation
Great Lakes Carbon Corporation
Construction Industry Manufacturers Association
Caterpillar Tractor Company
Tenneco Inc.
*Copper & Brass Fabricators Council
Atlantic Richfield Company (partial)
Century Brass Products Inc.
Kennecott Copper Corporation (partial)
Louisiana Land & Exploration Company (partial)
National Distillers & Chemical Corporation
Olin Corporation
Phelps Dodge Corporation (partial)
Revere Copper & Brass Inc. (partial)
*Ferroalloys Association
Chromium Mining & Smelting Corporation
Dow Chemical Company
Hanna Mining Company—Silicon Division*
Hanna Nickel Smelting Company
Interlake Inc. (partial)
International Minerals & Chemical Corporation
Newmont Mining Corporation (partial)
Ohio Ferroalloys
Roane Electric Furnace Company
Satralloy Inc.
SKW Alloys
Union Carbide Corporation

Sic 34—Fabricated Metal Products

Aluminum Association
Aluminum Company of America
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
Reynolds Metals Company
*American Boiler Manufacturers Association
Babcock & Wilcox Company
Combustion Engineering Inc.
Can Manufacturers Institute
American Can Company
Continental Group Inc.
Crown Cork & Seal Company Inc.
Joseph Schlitz Brewing Company
National Can Corporation
Chemical Manufacturers Association
Olin Corporation
Remington Arms Company Inc.
*Forging Industry Association
Ampco-Pittsburgh Corporation
Cameron Iron Works Inc.
Cameron Tool & Supply Company
Canton Drop Forging & Manufacturing Company
Gulf Coast Machine & Supply Company
Litton Industrial Products Inc.
Park-Ohio Industries Inc.
TRW Inc.

Sic 35—Machinery, Except Electrical

Air Conditioning & Refrigeration Institute
IC Industries
Trane Company
*Computer & Business Equipment Manufacturers Association
Control Data Corporation
Digital Equipment Corporation
International Business Machines Corporation
Sperry Rand Corporation
TRW Inc.
Xerox Corporation
Construction Industry Manufacturers Association
Bucyrus-Erie Company
Caterpillar Tractor Company
Clark Equipment Company
Cummins Engine Company Inc.
FMC Corporation
Ford Motor Company
Harnischfeger Corporation
Ingersoll-Rand Company
Tenneco Inc.

Sic 36—Electric, Electronic Equipment

Chemical Manufacturers Association
Great Lakes Carbon Corporation
Minnesota Mining & Manufacturing Company
National Electrical Manufacturers Association
Airco Inc.
Allied Chemical Corporation
Emerson Electric Company
Harvey Hubbell Inc.
Johnson Controls Inc.
McGraw-Edison Company
Reliance Electric Company
Square D Company
Union Carbide Corporation

Sic 37—Transportation Equipment

*Aerospace Industries Association of America
Boeing Company
General Dynamics Corporation (partial)
Grumman Corporation
Hughes Aircraft Corporation
Lockheed Corporation
Martin Marietta Corporation
McDonnell Douglas Corporation
Northrop Corporation
Textron Inc. (partial)
Thiokol Corporation
TRW Inc.
Vought Corporation
Chemical Manufacturers Association
Hercules Inc.
Tenneco Inc.
Motor Vehicle Manufacturers Association
American Motors Corporation
Chrysler Corporation
Ford Motor Company (Sic Code 33, Recovered Materials)
General Motors Corporation (Sic Code 30, 33, Recovered Materials)

Sic 38—Instruments and Related Products

Chemical Manufacturers Association
Eastman Kodak Company
GAF Corporation
Minnesota Mining & Manufacturing Company
Pharmaceutical Manufacturers Association
Johnson & Johnson
Warner-Lambert Company

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BILLING CODE 6450-01-M

Federal Register

Tuesday
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Part VI

Department of Education

Office of the Secretary

Instructional Media for the Handicapped; Final Grant Regulations

DEPARTMENT OF EDUCATION

Office of the Secretary

45 CFR Parts 121o, 121p, 121q, and 121r

Instructional Media for the Handicapped

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues regulations governing grants under the Instructional Media for the Handicapped Program authorized by Part F of the Education for the Handicapped Act, as amended. These regulations govern grants that promote the educational advancement of handicapped persons through the use of educational media

EFFECTIVE DATE: These final regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are transmitted to Congress several days before they are published in the Federal Register. The effective date is changed by statute if Congress takes certain adjournments. If you want to know the effective date of these regulations call or write the contact person named below.

FOR FURTHER INFORMATION CONTACT: Malcolm J. Norwood, Department of Education, 400 Maryland Avenue S.W., (Room 4821 Donohoe Building) Washington, D.C. 20202. Telephone (202) 472-4640.

SUPPLEMENTARY INFORMATION: The Commissioner of Education published in the Federal Register on December 18, 1979 (44 FR 75024-75026) a notice of proposed rulemaking (NPRM) for this program. Interested persons were given 45 days to comment on the proposed rules. During the comment period, four persons submitted written comments. The paragraphs that follow summarize those comments and the Secretary's responses to them.

As a result of a change in format there have been changes in the numbering of sections. Thus, changes that result from public comment have section numbers and titles that correspond to those in the final regulations. The affected section numbers of the NPRM appear in parentheses.

Definitions. (proposed § 121i.3)

Comment. Two commenters suggested that the definition of "media" be amended to include print materials.

Response. A change has been made. Print materials have always been considered to be a part of multi-media packages that have been developed under program activities. The definition has been amended to clarify that printed materials may be considered "media" if they are used in combination with films, filmstrips, photographs and slides, transparencies, audio and video copy or discs, and similar materials.

§ 121o.50 Limitations on use. (proposed § 121i.13)

Comment. Two commenters said that the restriction on theatrical films that limits the circulation to deaf person be eliminated.

Response. No change has been made. Since these films have commercial value, agreements to acquire them can be consummated only if the private companies that own them can be assured that the captioned versions will be shown only to deaf or predominantly deaf audiences and thus have no substantial impact on the ordinary commercial market. Without such assurances the owners prohibit any use of the films whatsoever. Therefore, this restriction is necessary to allow for a viable program of cationed theatrical films.

Restructuring the regulations

In comparing the final regulations with the NPRM, the reader will notice changes in format. These changes result from the Secretary's concern that the format of the regulations be easy to understand and follow.

In the NPRM the provisions governing individual programs under the Instructional Media for the Handicapped program authorized by Part F of the Education for the Handicapped Act, as amended, were contained in subparts within Part 121i. The final regulations (1) abandon Part 121i and (2) adopt a simplified organizational structure in which each program is included in a separate part of the Code of Federal Regulations in 45 CFR Part 121o through 121r. Thus, for example, the Captioned Films Loan Service for the Deaf Program is now located in Part 121o. This use of separate selfcontained regulations for individual programs is designed to highlight individual program regulations so as to increase their accessibility to readers. Moreover, all Education Department regulations are now being organized, to the extent feasible, using a uniform approach to assist readers who use many different regulations.

Application Criteria

Project application criteria in Part 121q.32 was formerly § 121i.32 of the Notice of Proposed Rulemaking. These application criteria will apply during the 1980 fiscal year.

For fiscal year 1981 and succeeding years, new selection criteria conforming more closely to the Education Division General Administrative Regulations (EDGAR) have been proposed. These proposed selection criteria may be found in the proposed rule section of this issue of the Federal Register.

Parts 121o though 121r are subject to certain provisions of the Education Division General Administrative Regulations (EDGAR) 45 CFR Parts 100a and 100c. EDGAR was published as final regulations in the Federal Register on April 3, 1980 (45 FR 22494-22631).

Citation of Legal Authority

A citation of statutory or other legal authority has been placed in parentheses on the line following the text of each provision.

Dated: July 31, 1980.

Shirley M. Hufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance Program Number 13.446, Instructional Media Services for the Handicapped. Part I of OMB Circular A-95 does not apply)

Title 45 of the Code of Federal Regulations is amended as follows:

1. Part 121i is removed.

2. A new Part 121o is added to read as follows:

PART 121o—CAPTIONED FILMS LOAN SERVICE FOR THE DEAF PROGRAM

Subpart A—General

Sec.

Subpart B [Reserved]

Subpart C—How Does One Apply Under This Program?

Subpart D [Reserved]

Subpart E—What Conditions Must Be Met by a Borrower?

Authority: Secs. 651-652 of Part F of the Education of the Handicapped Act, Pub. L. 91-230, as amended by Pub. L. 93-380, 84 Stat. 186 (20 U.S.C. 1451-1452)

Subpart A—General

§ 121o.1 Captioned films loan service for the deaf program.

The Captioned Films Loan Service for the Deaf Program promotes the general welfare of deaf persons by—

(a) Bringing to deaf persons understanding and appreciation of those films that play an important part in the general and cultural advancement of hearing persons;

(b) Providing enriched educational and cultural experiences through which deaf persons can be brought into better touch with the realities of their environment; and

(c) Providing a wholesome and rewarding experience that deaf persons may share together.

(20 U.S.C. 1451)

§ 121o.2 Who is eligible to apply under the captioned films loan service for the deaf program?

The following are eligible to apply to borrow captioned films:

(a) Deaf persons.

(b) Parents of deaf persons.

(c) Other persons directly involved in activities promoting the advancement of deaf persons in the United States.

(20 U.S.C. 1452(a))

§ 121o.3 What regulations apply to the captioned films loan service for the deaf program?

The following regulations apply to the Captioned Films Loan Service for the Deaf Program:

(a) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100c (General).

(b) The regulations in this Part 121o.

(20 U.S.C. 1451–1453)

§ 121o.4 What definitions apply to the captioned films loan service for the deaf program?

(a) *Definitions in EDGAR.* The following term used in these regulations are defined in 45 CFR Part 100c:

Nonprofit

(b) *Specific program definitions.*

"Act" means the Education of the Handicapped Act (Title VI of Pub. L. 91–230 as amended).

"Borrower" means a user of loan service media.

"Deaf person" means a person whose hearing is so severely impaired as not to be correctable to a functional level for the ordinary activities of living.

"Educational media" means those media used for educational purposes.

"Films" means motion pictures and other materials similar in display and function, such as video tapes and video discs.

"Media" means films, filmstrips, photographs and slides, transparencies, audio and video tapes, audio and video discs, and similar materials. Printed materials may also be included if in combination with one or more of the preceding.

"Nonprofit purposes" means that the exhibition of media may not result in monetary gain or other tangible economic benefit to the borrower.

"Theatrical films" means films produced for showing in a commercial setting as entertainment and not those primarily developed for use in a formal program of instruction.

(20 U.S.C. 1451, 1452)

Subpart B [Reserved]

Subpart C—How Does One Apply Under This Program?

§ 121o.30 How does one apply for the use of the loan service?

Eligible parties should contact the Division of Media Services of the Office of Special Education and Rehabilitative Services for information regarding an application for borrowing captioned films.

(20 U.S.C. 1452)

Subpart D [Reserved]

Subpart E—What Conditions Must Be Met by a Borrower?

§ 121o.50 What are the limitations on use of the loan service?

(a) A borrower shall use the captioned films for nonprofit purposes only.

(b)(1) A borrower shall ensure that no fee is charged to anyone for using the films.

(2) However, a borrower may collect funds for—

(i) The payment of resonable rent for the use of equipment;

(ii) The payment of reasonable costs for a meeting place for the showing of a film; and

(iii) The payment of reasonable fees to a projectionist.

(c) In accordance with agreements with producers and distributors, a borrower shall show theatrical films to deaf persons only. However, this does not exclude the attendance of teachers of the deaf, interpreters, parents, and occasional guests as long as the audience is composed predominantly of deaf persons.

(20 U.S.C. 1452 (a), (b)(1))

2. A new Part 121p is added to read as follows:

PART 121p—EDUCATIONAL MEDIA LOAN SERVICE FOR THE HANDICAPPED PROGRAM

Subpart A—General

Sec.

Subpart B [Reserved]

Subpart C—How Does One Apply Under This Program?

Subpart D [Reserved]

Subpart E—What Conditions Must Be Met By A Borrower?

Authority: Secs. 651–652 of Part F of the Education of the Handicapped Act, Pub. L. 91–230, as amended by Pub. L. 93–380, 84 Stat. 186 (20 U.S.C. 1451–1452)

Subpart A—General

§ 121p.1 Educational media loan service for the handicapped program.

The Educational Media Loan Service for the Handicapped Program makes educational media available in the United States for nonprofit purposes to handicapped persons, parents of handicapped persons, and other persons directly involved in activities for the advancement of handicapped persons.

(20 U.S.C. 1452(a))

§ 121p.2 Who is eligible to apply under the educational media loan service for the handicapped program?

The following are eligible to apply to borrow educational media:

(a) Handicapped persons.

(b) Parents of handicapped persons.

(c) Other persons directly involved in activities for the advancement of handicapped persons in the United States.

(20 U.S.C. 1452(a))

§ 121p.3 What regulations apply to the educational media loan service for the handicapped program?

The following regulations apply to the Educational Media Loan Service for the Handicapped Program:

(a) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100c (General).

(b) The regulations in this Part 121p.

(20 U.S.C. 1451–1453)

§ 121p.4 What definitions apply to the educational media loan service for the handicapped program?

(a) *Definitions in EDGAR.* The following terms used in these regulations are defined in 45 CFR Part 100c:

Nonprofit

(b) *Specific program definitions.* "Act" means the Education of the Handicapped Act (Title VI of Pub. L. 91–230 as amended).

"Borrower" means a user of loan service media.

"Educational media" means those media used for educational purposes.

"Films" means motion pictures and other materials similar in display and function, such as video tapes and video discs.

"Media" means films, filmstrips, photographs and slides, transparencies, audio and video tapes, audio and video discs, and similar materials. Printed materials may also be included if in combination with one or more of the preceding.

"Nonprofit purposes" means that the exhibition of media may not result in monetary gain or other tangible economic benefit to the borrower.

(20 U.S.C. 1451, 1452)

Subpart B [Reserved]

Subpart C—How Does One Apply Under This Program?

§ 121p.30 How does one apply for the use of loan services?

Eligible parties should contact the Division of Media Services of the Office of Special Education and Rehabilitative Services for information regarding an application for borrowing educational media.

(20 U.S.C. 1452(a))

Subpart D [Reserved]

Subpart E—What Conditions Must Be Met By A Borrower?

§ 121p.50 What are the limitations on the use of the loan service?

(a) A borrower shall use the educational media for nonprofit purposes only.

(b) A borrower shall ensure that no fee is charged to anyone for using the educational media.

(20 U.S.C. 1452(a))

3. A new Part 121q is added to read as follows:

PART 121q—EDUCATIONAL MEDIA RESEARCH, PRODUCTION, DISTRIBUTION, AND TRAINING

Subpart A—General

Sec.

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program.

Subpart C [Reserved]

Subpart D—How are Grants Made?

Subpart E—What Conditions Must be Met by a Grantee?

Authority: Secs. 651–652 of Part F of the Education of the Handicapped Act, Pub. L. 91–230, as amended by Pub. L. 93–380, 84 Stat. 186 (20 U.S.C. 1451–1452)

Subpart A—General

§ 121q.1 Educational media research, production, distribution, and training program.

This program is designed to promote the educational advancement of handicapped persons by providing assistance for—

(a) Conducting research on the use of educational media for handicapped persons;

(b) Producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of handicapped persons; and

(c) Training persons in the use of educational media for the instruction of handicapped persons.

(20 U.S.C. 1451(a)(2))

§ 121q.2 Who is eligible to apply under the educational media research, production, distribution, and training program?

Parties eligible for grants under this subpart are nonprofit public and private agencies, organizations, and institutions.

(20 U.S.C. 1451, 1452))

§ 121q.3 What regulations apply to the educational media research, production, distribution, and training program?

The provisions of 45 CFR Parts 100a, 100c, and this Part 121q apply to this program.

(20 U.S.C. 1221e–3(a)(1)

§ 121q.4 What definitions apply to the educational media research, production, distribution, and training program?

(a) *Definitions in EDGAR.* The following terms used in these regulations are defined in 45 CFR Part 100c:

Applicant
Application
Award
Secretary
Nonprofit
Public

(b) *Specific program definitions.* "Act" means the Education of the Handicapped Act (Title VI of Pub. L. 91–230 as amended).

"Distribution" means giving physical access to media and related materials and attendant equipment.

"Educational media" means those media used for educational purposes.

"Films" means motion pictures and other materials similar in display and function, such as video tapes and video discs.

"Media" means films, filmstrips, photographs and slides, transparencies, audio and video tapes, audio and video discs, and similar materials. Printed materials may also be included if in combination with one or more of the preceding.

"Media technology" means the methods and processes through which media are provided and encompasses demonstration of the use of modern communication technology in improving the general welfare of handicapped persons.

"Nonprofit purposes" means that the exhibition of media may not result in monetary gain or other tangible economic benefit to the borrower.

"Production" means creating or changing media materials.

"Training" means activities designed to develop facility in the use of media materials and technology and in dissemination and marketing practices.

(20 U.S.C. 1451, 1452)

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

§ 121q.10 Projects funded under the educational media research, production, distribution, and training program.

Projects that may be supported include, but are not limited to the following:

(a) Research in the use of educational and training films and other educational media for handicapped persons. This may include research to—

(1) Identify the full range of special needs of handicapped persons related to educational media and media technology;

(2) Determine the need for—

(i) Educational media training;

(ii) Media information systems; and

(iii) Media delivery systems;

(3) Determine the extent to which the needs listed in paragraph (a)(2) of this section are being met; and

(4) Develop or demonstrate new or improved techniques that would contribute to the advancement and education of handicapped persons through the use of educational media or technology or both.

(b) Creation or adaptation of educational media for use by handicapped persons, their parents, their actual or potential employers, and other persons directly involved in activities for the advancement of handicapped persons.

(c) Distribution of educational media. This may include the development of delivery systems.

(d) Dissemination of information about practices found effective in regard to the effective use of educational media and technology.

(e) Training of persons in the use and dissemination of educational media for the advancement of handicapped persons.

(20 U.S.C. 1452(b)(5))

Subpart C [Reserved]

Subpart D—How Are Grants Made?

§ 121q.30 How does the Secretary establish priorities annually?

(a) The Secretary may select a priority for funding from among those activities listed in § 121q.10 by publishing a notice in the Federal Register.

(b) The Secretary may identify a particular handicapping condition or conditions as a priority for assistance under this program through publication of a notice in the Federal Register.

(20 U.S.C. 1451, 1452)

§ 121q.31 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 121q.32. The extent to which an applicant addresses a priority is considered under the *need* criterion of § 121q.32(f).

(b) The Secretary awards up to 100 possible points for these criteria.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 1451)

§ 121q.32 Criteria for grants.

(a) In evaluating grant applications under this subpart for fiscal year 1980 only, the Secretary applies the following criteria. The Secretary awards up to 100 points for the total criteria. The maximum possible score for each criterion reflects the degree of importance that the Secretary assigns to that criterion and is indicated separately at the end of each full criterion as follows.

(1) *Need.* (i) The need for the proposed activity with respect to the handicapping condition served or to be served by the applicant;

(ii) The potential for using the results in other projects or programs; and

(iii) The relevance to priority areas of concern as to handicapping conditions and activities listed in § 121q.10 as periodically determined and published by the Secretary. (20 points)

(2) *Personnel.* The qualifications and experience of personnel designated to carry out the proposed project. (20 points)

(3) *Resources.* The availability of facilities and equipment required for the proposed project. (10 points)

(4) *Cost.* The reasonableness of estimated costs in relation to anticipated results. (15 points)

(5) *Objectives and work plan.* A sharply defined, clearly stated set of objectives whose results can be measured and a description of the activities to accomplish the objectives. (25 points)

(6) *Evaluation.* The provision for evaluation of the effectiveness of the project. (5 points)

(7) *Marketing and dissemination.* The provision for marketing or otherwise disseminating the results of the project and for making materials and techniques available to the populations for whom the project would be useful. (5 points)

(b) Each time the Secretary publishes a Notice of closing Date for grant applications, the Secretary indicates—

(1) Which of the activities in § 121q.10 are to be priorities for grants; and

(2) Whether any particular handicapping condition or conditions are to be priorities for grants.

(20 U.S.C. 1451, 1452)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 121q.40 Final products.

The Secretary may require any grantee engaged in the actual development of materials to submit up to one original and two copies of those materials.

4. A new Part 121r is added to read as follows:

PART 121r—CENTERS FOR EDUCATIONAL MEDIA AND MATERIALS FOR THE HANDICAPPED PROGRAM

Subpart A—General

Sec.

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

Subpart C [Reserved]

Subpart D—How Does the Secretary Award a Contract?

Authority: Sec. 653 of Part F of the Education of the Handicapped Act, Pub. L. 91-230, as amended by Pub. L. 94-142; 84 Stat. 187 (20 U.S.C. 1453)

Subpart A—General

§ 121r.1 Centers for educational media and materials for the handicapped program.

The Secretary awards contracts to establish and operate centers for educational media and materials for handicapped persons. These centers facilitate the use of new technology in educational programs for handicapped persons.

(20 U.S.C. 1453(a))

§ 121r.2 Who is eligible to enter into a contract under the centers for educational media and materials for the handicapped program?

Parties eligible to enter into a contract under this program are institutions of higher education, State and local educational agencies, or other nonprofit agencies.

(20 U.S.C. 1453(a))

§ 121r.3 What regulations apply to contracts for centers for educational media and materials for the handicapped program?

The following regulations apply to contracts under this program:

(a) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Parts 100a and 100c.

(b) The regulations in this Part 121r.

(20 U.S.C. 1451–1453)

§ 121r.4 What definitions apply to centers for educational media and materials for the handicapped program?

(a) *Definitions in EDGAR.* The following terms used in these regulations are defined in 45 CFR Part 100c:

Award
Secretary
Local educational agency
State educational agency
Nonprofit

(b) *Specific program definitions.* "Act" means the Education of the Handicapped Act (Title VI of Pub. L. 91–230 as amended).

"Educational media" means those media used for educational purposes.

"Media technology" means the methods and processes through which media are provided and encompasses demonstration of the use of modern communication technology in improving the general welfare of handicapped persons.

(20 U.S.C. 1451, 1452)

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

§ 121r.10 What categories of activities may receive support?

The Secretary may enter into contracts under this part to provide Federal funds to facilitate the use of educational technology through—

(a) The design of instructional materials;

(b) The development of instructional materials;

(c) The adaptation of instructional materials; or

(d) Other activities consistent with the purposes of this part.

(20 U.S.C. 1453(a))

Subpart C [Reserved]

Subpart D—How Does the Secretary Award a Contract?

§ 121r.40 What does the Secretary consider before entering into a contract under this part?

In considering proposals to enter into contracts under this part, the Secretary gives preference to institutions and agencies—

(a) That have domonstrated the capabilities necessary for the development and evaluation of educational media for handicapped persons; and

(b) That can serve the educational technology needs of the Model High School for Deaf Persons (established under Pub. L. 89–864).

(20 U.S.C. 1453)

[FR Doc. 80-23510 Filed 8-4-80; 8:45 am]
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Federal Register

Tuesday
August 5, 1980

Part VII

Department of Education

Office of the Secretary

Instructional Media for the Handicapped

DEPARTMENT OF EDUCATION

Office of the Secretary

45 CFR Part 121q

Instructional Media for the Handicapped

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education issues proposed regulations governing the selection criteria under the Instructional Media for the Handicapped Program authorized by Part F of the Education for the Handicapped Act, as amended. These proposed criteria will govern grants that promote the educational advancement of handicapped persons through the use of media. (20 U.S.C. 1451–1452).

DATES: All comments must be received on or before October 6, 1980.

ADDRESSES: Any comments on these proposed selection criteria should be addressed to Malcolm J. Norwood, Department of Education, 400 Maryland Avenue, SW (Room 4821, Donohoe Building), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Malcolm J. Norwood, telephone (202) 472–4640.

SUPPLEMENTARY INFORMATION:

Purpose

The proposed selection criteria in § 121q.32 would apply to applications for grants made in fiscal year 1981 and for succeeding fiscal years.

Selection criteria governing fiscal year 1980 grants may be found in the final rule section of this issue of the Federal Register.

The proposed selection criteria conforms more closely to the Education Division General Administrative Regulations (EDGAR).

Uniform review criteria permit are established for applications. Weighted selection criteria permit an evaluation of applications by the Secretary on the basis of point scores. Education Division administrative regulations have been considered in establishing approporate selection criteria.

These proposed regulations are subject to certain requirements found in the Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Programs) and in 45 CFR Part 100c (Definitions).

The following items applicable to this program are among those covered generally in EDGAR:

How to apply for a grant.

How grants are made.

Certain conditions that must be met by a grantee.

The administrative responsibilities of a grantee.

The procedures the Department of Education uses to obtain compliance.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. In developing final regulation for this program, the Secretary will consider all comments received on or before October 6, 1980.

All written comments submitted in response to the proposed regulation will be available for inspection, both during and after the comment period, in Room 4821, Donohoe Building, 400 6th St., SW, Washington, D.C., between the hour of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Saturdays, Sundays, and Federal Holidays.

Citation of Legal Authority

The reader will find a citation of statutory of other legal authority in parentheses on the line following each substantive provision.

Dated: July 31, 1980.

Shirley M. Hufstelder,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 13.446, Instructional Media Services for the Handicapped. Part I of OMB Circular A-95 does not apply)

The Secretary proposes to amend § 121q.32 by revising the section heading and by revising the section to read as follows:

§ 121q.32 What selection criteria does the Secretary use?

(a) *Plan of Operation.* (25 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally under represented, such as—

(A) Handicapped persons;

(B) Members of racial or ethnic minority groups;

(C) Women; and

(D) The elderly.

(b) *Quality of key personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally under represented, such as—

(A) Handicapped persons;

(B) Members of racial or ethnic minority groups;

(C) Women; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (15 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to be objectives of the project.

(d) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 45 CFR § 100a.590—Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are

objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need.* (20 points)

(1) The Secretary reviews each application for information that shows the need for the project.

(2) The Secretary looks for information that shows—

(i) The need for the proposed activity with respect to the handicapping condition served or to be served by the applicant;

(ii) The potential for using the results in other projects or programs.

(g) *Marketing and dissemination.* (5 points)

(1) The Secretary reviews each application for information that shows adequate provisions for marketing or disseminating results.

(2) the Secretary looks for information that shows—

(i) The provision for marketing or otherwise disseminating the results of the project; and

(ii) Provisions for making materials and techniques available to the populations for whom the project would be useful.

(20 U.S.C. 1451, 1452)

[FR Doc. 80-23511 Filed 8-4-80; 8:45 am]
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FEDERAL REGISTER PAGES AND DATES, AUGUST

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENERGY DEPARTMENT

Economic Regulatory Administration—

38302 6–6–80 / Powerplant and Industrial Fuel Use Act of 1978; criteria for petitions for exemptions from the prohibitions of the Act—new facilities

38276 6–6–80 / New electric powerplants and certain new major fuel burning installations; use of petroleum and natural gas

GENERAL SERVICES ADMINISTRATION

47148 7–14–80 / Procurement; charges and deposits for bidding documents

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 4, 1980